

CISCO SYSTEMS, INC.

FORM 10-K (Annual Report)

Filed 10/22/97 for the Period Ending 07/26/97

Address	170 WEST TASMAN DR SAN JOSE, CA 95134-1706
Telephone	4085264000
CIK	0000858877
Symbol	CSCO
SIC Code	3576 - Computer Communications Equipment
Industry	Communications Equipment
Sector	Technology
Fiscal Year	07/28

CISCO SYSTEMS INC

FORM 10-K (Annual Report)

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Address	170 WEST TASMAN DR SAN JOSE, California 95134-1706
Telephone	408-526-4000
CIK	0000858877
Industry	Communications Equipment
Sector	Technology
Fiscal Year	07/31

FORM 10-K
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

(Mark one)

Annual report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 For the fiscal year ended July 26,1997

Transition report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 For the transition period from _____ to _____
Commission file number 0-18225

CISCO SYSTEMS, INC.

(Exact name of registrant as specified in its charter)

California ----- (State or other jurisdiction of incorporation or organization)	77-0059951 ----- (IRS Employer Identification No.)
170 West Tasman Drive San Jose, California ----- (Address of principal executive offices)	95134 ----- (Zip Code)

Registrant's telephone number, including area code (408) 526-4000

Securities registered pursuant to Section 12(b) of the Act:

Title of each class -----	Name of each exchange on which registered -----
None	Nasdaq National Market

Securities registered pursuant to Section 12(g) of the Act:

Common Stock

(Title of class)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes No
Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained to the best of Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

As of September 15, 1997, the approximate aggregate market value of voting stock held by non-affiliates of the registrant was \$46,175,832,500 (based upon the closing price for shares of the Registrant's Common Stock as reported by the National Market System of the National Association of Securities Dealers Automated Quotation System on that date). Shares of Common Stock held by each officer, director, and holder of 5% or more of the outstanding Common Stock have been excluded in that such persons may be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes. As of September 15, 1997, 672,119,249 shares

of registrant's common stock were outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

(1) Portions of Annual Report to Shareholders for fiscal year ended July 26, 1997.

(2) Portions of the Registrant's Proxy Statement related to the 1997 Annual Meeting of Shareholders, to be held on November 13, 1997, are incorporated by reference into Part III of this Annual Report on 10-K where indicated.

The table of exhibits filed appears at page 23.

PART I

ITEM 1. BUSINESS

GENERAL

Certain Statements contained in this Annual Report on Form 10-K, including, without limitation, statements containing the words "believes", "anticipates", "estimates", "expects", and words of similar import, constitute forward looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Readers are referred to the "Financial Risk Management" and "Future Growth Subject to Risks" sections, of Cisco System Inc.'s 1997 Annual Report to Shareholders, which is hereby incorporated by reference, as well as the "Acquisition, Investment and Alliances", "Competition", "Research and Development", "Manufacturing", "Patents, Intellectual Property and Licensing" and "Other Risk Factors" sections contained herein, which identify important risk factors that could cause actual results to differ from those contained in the forward looking statements.

Cisco Systems, Inc. and its subsidiaries ("Cisco", or the "Company") operate in one industry segment providing networking solutions that connect computing devices and computer networks. These allow people to access or transfer information without regard to differences in time, place or type of computer system.

Networking is a multi-billion dollar global market whose growth is spurred by the increasingly critical role that electronic information plays in almost every facet of life today. While computer networking for many years has been a highly complex science employed primarily by large enterprises, the growth in use of the global Internet has proved beneficial to organizations of all sizes, as well as individuals, worldwide.

The Company markets its products through its direct sales force, distributors, value-added resellers and system integrators. This multiple-channel approach allows customers to select the channel that addresses their specific needs and provides the Company with broad coverage of worldwide markets.

Cisco was incorporated in California in December 1984. The Company's executive offices are located at 170 West Tasman Drive, San Jose, California 95134, and its telephone number at that location is (408)526-4000.

END-TO-END NETWORKING SOLUTIONS

Cisco's strategy is to provide end-to-end networking solutions that customers can use to a) build a unified information infrastructure of their own, or b) to connect to someone else's network. An end-to-end networking solution provides a common technical architecture that allows network services to be consistently provided to all users on the network.

Cisco's products are used individually or in combination to connect computing devices to networks, or computer networks with each other - whether they are within a building, across a campus or around the world. The Company's breadth of product offerings enables it to configure

hardware and software features to match customer needs. Many of the Company's products are expandable, offering customers the option to upgrade their networks as their needs grow.

Cisco's product offerings fall into several categories:

Routing

Routing is a foundation technology for computer communications. Routers move information from one network to another, applying intelligence in the process to ensure that the information reaches its destination securely and in the fastest way possible. Cisco offers a broad range of routers, including the Cisco 7000, 4000, 2500 and 1000 families, as well as the recently introduced Cisco 12000, or Gigabit Switch Router (GSR).

Switching

Switching is another important networking technology, used in both local-area networks (LANs) and wide-area networks (WANs). Cisco's switching solutions employ all widely used switching technologies -- Ethernet, Token Ring and Asynchronous Transfer Mode (ATM). Cisco's LAN switching products are contained in the Catalyst(TM) family. WAN switching products include the Cisco StrataCom(R) IGX and BPX families, and the Cisco 3800 series.

Access

Computing and communications today are conducted in many locations, not just at a company's head office. Cisco's access solutions give groups and individuals who are remotely located the same level of connectivity and information access they would have if they were located at the company's head office. Asynchronous and ISDN remote-access routers and dial-up access servers are used for supporting telecommuters and mobile workers, for Internet access and branch-office connectivity. The Company's access products include the AS5000 family of access servers; access routers such as the Cisco 4000, 2500, and 1000 families, as well as network security and management software.

SNA/LAN

Most large organizations have existing IBM computing systems that use the System Network Architecture (SNA) networking method, as well as LANs based on open network architectures (such as the TCP/IP protocol). Network managers with both types of networks increasingly want to combine them into a single network that leverages existing investments. The Company's CiscoBlue strategy provides a roadmap for consolidating and managing SNA and non-SNA networks. It also enables an IBM data center to be used in Internet/intranet applications.

Internet Appliances and Software

Cisco offers products that improve a network manager's ability to cope with a number of challenges posed by the growing popularity of the Internet, such as security, network traffic volume, and network address shortage. These products include: the PIX Firewall, which prevents unauthorized access to a network; the Micro Webserver, which facilitates the set up of Web sites; IP/TV software, which transmits audio and video to desktop PCs; IPeXchange Internet Gateways, which are designed to provide Novell NetWare customers in small and medium-sized businesses with easy and secure connectivity to the Internet; and LocalDirector and

Distributed Director, which balance the load between multiple servers to enable timely access and response to requests.

Cisco IOS Software

Cisco Internetwork Operating System (Cisco IOS(TM)) is the common platform that transforms a network into a strategic asset and competitive advantage. Cisco IOS technologies include a wide variety of features that provide the intelligence of the Internet and of private networks. They are the unifying thread that connects otherwise disparate hardware to build a seamless, efficient infrastructure which facilitates network growth and the deployment of new applications, which in turn enhances reliability, and interoperability, and lowers the cost of ownership.

The Cisco IOS software platform provides important network services and enables networked applications. Cisco IOS network services fall into two categories. Foundation Network Services are the building blocks of a robust network. They include connectivity, security, scalability, reliability and management. Enabling Network Services support the deployment of applications that take advantage of the underlying network. Enabling Network services include such areas as multimedia, quality of service(a network management and optimization service) and voice.

Network Management

Cisco provides applications that centralize management, automate routine tasks, and can be integrated into customers' existing network management environments. The CiscoWorks software is a suite of standards-based applications that allow users to manage their Cisco devices from a single integrated console. Cisco Enterprise Accounting is a new family of powerful and easy-to-use enterprise network management accounting and billing applications that help manage and control the cost of owning corporate networks and Internet access. The NETSYS Enterprise/Solver family of network intelligent management tools aids in troubleshooting, managing, and network planning.

CUSTOMERS AND MARKETS

Networking needs are influenced by a number of factors, including the size of the organization, number and types of computer systems, geographic locations, and the applications requiring data communications. Cisco's customer base is not concentrated in any particular industry and in each of the past five fiscal years no single customer has accounted for ten percent or more of the Company's net sales. For additional information regarding the Company's customers and markets see Note 11, "Geographic Information and Major Customers," on page 49 of the Company's 1997 Annual Report to Shareholders, which is incorporated by reference herein.

Cisco's market strategy addresses three customer profiles:

Enterprise

Enterprise customers generally are large organizations with complex networking needs, usually spanning multiple locations and types of computer systems. Enterprise customers include corporations, government agencies, utilities and educational institutions.

Service Providers

These customers provide data communication services, including telecommunication carriers, Internet Service Providers, cable companies, and wireless communication providers.

Small/Medium Business

These customers have a need for data networks of their own, as well as connection to the Internet and/or to business partners. However, these customers generally have limited resources; therefore, the Company attempts to provide products which are affordable as well as easy to install and use.

The Company's worldwide direct sales organization at September 20, 1997 consisted of approximately 3,500 individuals, including managers, sales representatives, and technical support personnel. The Company has approximately 105 U.S. field sales offices providing coverage in the following metropolitan areas: Atlanta, Boston, Chicago, Cincinnati, Cleveland, Dallas, Denver, Durham, Honolulu, Houston, Indianapolis, Los Angeles, Miami, New Orleans, New York, Orlando, Phoenix, Pittsburgh, Portland (Oregon), Princeton, Salt Lake City, San Antonio, San Diego, San Francisco, San Jose, Seattle, St. Louis, and Washington, D.C., among others.

The Company's international sales are currently being made through multiple channels including approximately 90 international distributors and resellers throughout the world. These international distributors provide system installation, technical support, and follow-up services to end-customers. Generally, the Company's international distributors have nonexclusive, country-wide agreements. International sales through the various channels, including the Company's subsidiaries, accounted for approximately 43.5% of total sales in fiscal 1997, 48.2% in fiscal 1996, and 41.7% in fiscal 1995. Sales to international customers and distributors generally have been made in United States dollars. During fiscal 1997, the Company established its European Operations Center (EOC). On an ongoing basis, substantially all European orders will be fulfilled from the EOC.

The Company has sales support subsidiaries worldwide. New subsidiaries formed in fiscal 1997 include Greece, India, Israel, Poland, Taiwan, and Turkey.

ACQUISITIONS, INVESTMENTS AND ALLIANCES

The end-to-end strategy pursued by Cisco requires a wide variety of technologies, products and capabilities. Additionally, the pace of change in the industry is very rapid. The combination of complexity and rapid change make it difficult for one company, no matter how large, to develop all technological solutions alone. Acquisitions, investments and alliances are tools used by the Company to fill gaps in its offerings and enable it to deliver complete solutions to its customers and prospects in target markets. Satisfying customers' networking needs requires a constant monitoring of market and technology trends, plus an ability to act quickly. Cisco has a four-part approach to satisfy the need for new or enhanced networking products and solutions. In order of preference, this approach is to: develop new technologies and products internally; enter into joint-development efforts with other companies; resell another company's product; and acquire all or part of another company. Acquisitions involve numerous risks, including difficulties in assimilation of the operations, technologies, and products of the acquired companies; the risk of diverting management's attention from normal daily operations of the business; risks of entering markets in which the company has no or limited direct prior experience and where competitors in such markets have stronger market positions; and the potential loss of key employees of the acquired company. The company must also maintain its ability to manage any such growth effectively. Failure to manage growth effectively and successfully integrate acquisitions made by the company could adversely affect the Company's business and operating results.

Since 1993, the Company has acquired a number of companies. The Company expects to make future acquisitions where it believes that it can acquire new products and channels of distribution or otherwise rapidly enter new or emerging markets. Mergers and acquisitions of high-technology companies are inherently risky, and no assurance can be given that the Company's previous or future acquisitions will be successful and will not adversely affect the Company's financial condition or results of operations.

Each of the Company's acquisitions has furthered the Company's commitment to providing an end-to-end solution. The Company now has a broad set of product offerings and technologies, which include Ethernet, Token Ring, Asynchronous Transfer Mode (ATM) switching, Synchronous Optical Network/Synchronous Digit Hierarchy (SONET/SDH), xDSL, and also network management software solutions, among others.

Minority Investments

The Company makes minority investments in companies whose technologies or expertise appear strategic to Cisco's interests and merit monitoring, but where there is not yet a compelling need to have those capabilities in house.

Strategic Alliances

The Company pursues strategic alliances with other industry leaders in areas where collaboration can produce mutual benefits. The motivation for a strategic alliance can include: technology exchange, product development, joint marketing and sales, and new-market creation. Cisco has strategic alliances with Microsoft, Intel, Hewlett-Packard, GTE, and Alcatel, among others.

BACKLOG

The Company's backlog on September 20, 1997 was approximately \$442.9 million compared with an approximate backlog of \$292.3 million at September 21, 1996. The Company includes in its backlog only orders confirmed with a purchase order for products to be shipped within six months to customers with approved credit status. Because of the generally short cycle between order and shipment, and occasional customer changes in delivery schedules or cancellation of orders (which are made without significant penalty), the Company does not believe that its backlog, as of any particular date, is necessarily indicative of actual net sales for any future period.

COMPETITION

Cisco competes in the networking market, providing solutions for Internet, intranet, and extranet connectivity. The networking market is characterized by rapid growth, technological change, and a

convergence of technologies. These market factors represent both an opportunity and a competitive threat to Cisco. The Company competes with numerous vendors in each product category. Cisco expects that the overall number of vendors will increase in these markets due to its attractive growth opportunities.

Cisco's traditional competitors include 3Com, Ascend, Bay Networks, Cabletron, Fore, and IBM. As the Company focuses on new market opportunities, such as transporting voice, video, and data traffic across the same network, it will increasingly compete with large telecommunications equipment suppliers such as Lucent, Ericsson and Nortel. Some of the Company's competitors compete across all of Cisco's product lines, while others do not offer as wide a breadth of networking solutions. Several of the Company's current and potential competitors have greater financial, marketing and technical resources than the Company.

The principal competitive factors in the markets in which the Company presently competes and may compete in the future are: price; performance; the ability to provide end-to-end solutions and support; conformance to standards; the ability to provide added value features such as security, reliability, and investment protection; and market presence.

The Company also faces competition from customers it licenses technology to and suppliers from whom it transfers technology. Networking's inherent nature is such that the Company must compete, and at the same time cooperate, with these companies. The Company's inability to effectively manage these complicated relationships with customers and suppliers could have a material adverse effect on the Company's business, operating results, and financial condition.

RESEARCH AND DEVELOPMENT

The Company is engaged in research and development efforts to develop customer solutions for each of its three primary lines of business: Enterprise, Service Provider, and Small/Medium Business. The Company focuses its product development activities on networking products that are responsive to customer requirements and that provide end-to-end networking solutions. The Company's research and development investments are made either internally or through acquisition, and in addition, the Company makes minority equity investments in early stage technology development entities.

The Company has recently announced several new products, including the Gigabit Switch Router, known as the GSR12000, and the Company's next-generation universal access server, the AS5300. However, the industry in which Cisco competes is subject to rapid technological developments, evolving industry standards, changes in customer requirements and frequent new product introductions and enhancements. As a result, the Company's success, in part, depends upon its ability, on a cost-effective and timely basis, to continue to enhance its existing solutions and to develop and introduce new solutions that improve performance and reduce total cost of ownership. In order to achieve these objectives, the Company's management and engineering personnel work closely with customers, to identify and respond to customer needs, as well as with other innovators of internetworking products, including universities, laboratories, and corporations. The Company will also continue to make strategic acquisitions and equity investments where appropriate. The Company intends to remain dedicated to industry standards and to continue to support important protocol standards as

they emerge. Still, there can be no assurance that Cisco will be able to successfully develop new products to address new customer requirements and technological changes, or that such products will achieve market acceptance.

In fiscal 1997, 1996, and 1995, the Company's research and development expenditures were approximately \$698.2 million, \$399.3 million, and \$210.8 million, respectively. All of the Company's expenditures for research and development costs, and purchased research and development of approximately \$508.4 million in fiscal 1997 and \$95.8 million in fiscal 1995, have been expensed as incurred.

MANUFACTURING

The Company's manufacturing operations consist primarily of quality assurance of materials, components and subassemblies. Additionally, the Company performs final assembly and test. The Company presently uses a variety of independent third-party companies to perform printed circuit board assembly, in circuit test, and product repair. The Company and single enterprise partners install proprietary software on electronically programmable memory chips installed in its systems in order to configure products to customer needs and to maintain quality control and security. The manufacturing process enables the Company to configure the hardware and software in unique combinations to meet a wide variety of individual customer requirements. The Company and single enterprise partners use automated testing equipment and "burn-in" procedures, as well as comprehensive inspection, testing, and statistical process control to assure the quality and reliability of its products. The Company's and its partners' manufacturing processes and procedures are ISO 9001 certified. To date, the Company has not experienced significant customer returns of its products.

PATENTS, INTELLECTUAL PROPERTY AND LICENSING

Cisco's success is dependent upon its proprietary technology. Cisco generally relies upon patents, copyrights, trademarks and trade secret laws to establish and maintain its proprietary rights in its technology and products. Cisco has a program to file applications for and obtain patents in the United States and in selected foreign countries where a potential market for Cisco's products exists. Cisco has been issued a number of patents; other patent applications are currently pending. There can be no assurance that any of these patents will not be challenged, invalidated or circumvented, or that any rights granted thereunder will provide competitive advantages to Cisco. In addition, there can be no assurance that patents will be issued from pending applications, or that claims allowed on any future patents will be sufficiently broad to protect Cisco's technology. In addition, the laws of some foreign countries may not permit the protection of Cisco's proprietary rights to the same extent as do the laws of the United States. Although Cisco believes the protection afforded by its patents, patent applications, copyrights and trademarks has value, the rapidly changing technology in the networking industry makes Cisco's future success dependent primarily on the innovative skills, technological expertise and management abilities of its employees rather than on patent, copyright and trademark protection.

Many of Cisco's products are designed to include software or other intellectual property licensed from third parties. While it may be necessary in the future to seek or renew licenses relating to various aspects of its products, Cisco believes that based upon past experience

and standard industry practice, such licenses generally could be obtained on commercially reasonable terms. Because of the existence of a large number of patents in the networking field and the rapid rate of issuance of new patents, it is not economically practical to determine in advance whether a product or any of its components infringe patent rights of others. From time to time, Cisco receives notices from or is sued by third parties regarding patent claims. If infringement is alleged, Cisco believes that, based upon industry practice, any necessary license or rights under such patents may be obtained on terms that would not have a material adverse effect on Cisco's business, operating results and financial condition. Nevertheless, there can be no assurance that the necessary licenses would be available on acceptable terms, if at all, or that Cisco would prevail in any such challenge. The inability to obtain certain licenses or other rights or to obtain such licenses or rights on favorable terms, or the need to engage in litigation could have a material adverse effect on Cisco's business, operating results and financial condition.

OTHER RISK FACTORS

The Company's business and stock is subject to a number of risks. Some of those risks are described below. Other risks are presented in the "Financial Risk Management," and "Future Growth Subject to Risks" sections on pages 25-29 of the Company's Annual Report to Shareholders for the year ended July 26, 1997, which is hereby incorporated by reference.

Potential Fluctuations in Quarterly Results

The Company's operating results have in the past been, and may continue to be, subject to quarterly fluctuations as a result of a number of factors. These factors include the introduction and market acceptance of new technologies, including Gigabit Switch Routing and Tag Switching; the timing of orders and manufacturing lead times; variations in sales channels, product costs or mix of products sold; increased competition in the networking industry; the overall trend toward industry consolidation; the integration of people, operations and products from acquired businesses and technologies; and changes in general economic conditions and specific economic conditions in the computer and networking industries, any of which could have an adverse impact on operations and financial results. For example, the Company from time to time has made acquisitions that result in purchased research and development expenses being charged in an individual quarter. These charges may occur in any particular quarter resulting in variability in the Company's quarterly earnings. Additionally, the dollar amounts of large orders for the Company's products have been increasing, and therefore the operating results for a quarter could be materially adversely affected if a number of large orders are either not received or are delayed, due for example, to cancellations, delays or deferrals by customers.

Dependence on New Product Development; Rapid Technological and Market Change

The Company's operating results will depend to a significant extent on its ability to reduce the costs to produce existing products. In particular, the Company broadened its product line by introducing network access products. Sales of these products, which are generally lower priced and carry lower margins than the Company's core products, have increased more rapidly than sales of the Company's core products. The success of these and other

new products is dependent on several factors, including proper new product definition, product cost, timely completion and introduction of new products, differentiation of new products from those of the Company's competitors and market acceptance of these products. The Company has addressed the need to develop new products through its internal development effort, joint development with other companies and acquisitions. There can be no assurance that the Company will successfully identify new product opportunities, develop and bring new products to market in a timely manner, and achieve market acceptance of its products or that products and technologies developed by others will not render the Company's products or technologies obsolete or noncompetitive.

Strategic Alliances

The Company has a number of strategic alliances with companies including Microsoft, Intel, Hewlett-Packard, GTE, and Alcatel, among others. These arrangements are generally limited to specific projects, the goal of which is generally to facilitate product compatibility and adoption of industry standards. If successful, these relationships will be mutually beneficial and result in industry growth. However, these alliances carry an element of risk because, in most cases, the Company must compete in some business areas with a Company with which it has strategic alliances and, at the same time, cooperate with such companies in other business areas. Also, if these companies fail to perform, or if these relationships fail to materialize as expected, Cisco could suffer delays in product development or other operational difficulties.

Industry Consolidation

There has been a trend toward industry consolidation for several years. During fiscal 1997, the Company saw this trend continue, with the completion of two significant industry mergers. In June 1997, 3Com completed its acquisition of U.S. Robotics and Ascend Communications, Inc. completed its acquisition of Cascade Communications Corporation. The Company expects this trend toward industry consolidation to continue as companies attempt to strengthen or hold their market positions in an evolving industry. The Company believes that industry consolidation may provide stronger competitors that are better able to compete as sole-source vendors for customers. This could lead to more variability in operating results as the Company competes to be a single vendor solution and could have a material adverse effect on the Company's business, operating results and financial condition.

Organizational Changes

The Company has realigned its business around three key customer groups or lines of business. The Company believes this realignment of resources enables it to better meet the needs of its customers. During fiscal 1997, the Company also reorganized its sales management teams to better serve customers' needs. There are risks inherent in any business realignment or reorganization, and the Company can give no assurance that these organizational changes will meet their intended objectives.

Entering New or Developing Markets

As the Company focuses on new market opportunities, such as transporting voice, video and data traffic across the same network, it will increasingly compete with a variety of large telecommunications equipment suppliers such as Lucent, Ericsson, and Nortel, among others. Many of these companies have substantially greater financial, marketing and technical resources than the Company. If the Company cannot successfully compete with these and other potential competitors, it

could have a material adverse effect on the Company's business, operating results and financial condition.

Variability in Service Provider Sales

Although sales to the service provider market have continued to grow, this market is characterized by large, and often sporadic purchases. Sales activity in this industry depends upon the stage of completion of expanding network infrastructures, the availability of funding, and the extent that service providers are affected by regulatory and business conditions in the country of operations. A decline or delay in sales orders from this industry could have a material adverse effect on the Company's business, operating results and financial condition.

Manufacturing Risks

Although the Company generally uses standard parts and components for its products, certain components are presently available only from a single source or limited sources. The Company has generally been able to obtain adequate supplies of all components in a timely manner from existing sources, or where necessary, from alternative sources of supply. A reduction or interruption in supply or a significant increase in the price of one or more components would adversely affect the Company's business, operating results and financial condition and could damage customer relationships.

Changes in Telecommunications Laws and Tariffs

Changes in domestic and international telecommunication requirements could affect the Company's sales of its products. In particular, the Company believes it is possible that there may be significant changes in domestic telecommunications regulations in the near future that could slow the expansion of the service providers' network infrastructures and adversely affect the Company's business, operating results and financial condition. Future changes in tariffs by regulatory agencies or application of tariff requirements to currently untariffed services could affect the sales of the Company's products for certain classes of customers. Additionally, in the U.S. the Company's products must comply with various Federal Communication Commission requirements and regulations. In countries outside of the U.S., the Company's products must meet various requirements of local telecommunications authorities. Changes in tariffs, or failure by the Company to obtain timely approval of products could have a material adverse effect on the Company's business, operating results and financial condition.

International Operations

The Company conducts business on a global basis. Accordingly, the Company's future results could be adversely affected by a variety of uncontrollable and changing factors including foreign currency exchange rates; regulatory, political or economic conditions in a specific country or region; trade protection measures and other regulatory requirements; government spending patterns; and natural disasters, among other factors. In fiscal 1997, the Company experienced slower sales growth in Japan, France and Germany, as well as in certain other parts of Asia and Europe. Any or all of these factors could have a material adverse impact on the Company's future international business in these or other countries.

Risks Associated With Internet Infrastructure

The Company's management believes that there will be performance problems with Internet communications in the future which could receive a high degree of publicity and visibility. As the Company is a large supplier of equipment for the Internet infrastructure, customers' perceptions of the Company's products and the marketplace's perception of Cisco as a supplier of networking products, may be adversely affected, regardless of whether or not these problems are due to the performance of Cisco's products. Such an event could also result in an adverse effect on the market price of the Company's Common Stock and could adversely affect Cisco's business, operating results and financial condition.

Volatility of Stock Price

The Company's Common Stock has experienced substantial price volatility, particularly as a result of variations between the Company's actual or anticipated financial results and the published expectations of analysts and as a result of announcements by the Company and its competitors. In addition, the stock market has experienced extreme price and volume fluctuations that have affected the market price of many technology companies in particular and that have often been unrelated to the operating performance of these companies. These factors, as well as general economic and political conditions, may adversely affect the market price of the Company's Common Stock in the future.

EMPLOYEES

As of September 20, 1997, the Company employed approximately 11,000 persons, including 2,200 in manufacturing, service and support, 4,500 in sales and marketing, 3,400 in engineering, and 900 in finance and administration. Approximately 2,000 employees were in international locations.

None of the employees is represented by a labor union, and the Company considers its relations with its employees to be positive. The Company has experienced no work stoppages.

Competition for technical personnel in the Company's industry is intense. The Company believes that its future success depends in part on its continued ability to hire, assimilate, and retain qualified personnel. To date, the Company believes that it has been successful in recruiting qualified employees, but there is no assurance that it will continue to be successful in the future.

ITEM 2. PROPERTIES

The Company's principal corporate offices are located at sites in Santa Clara and San Jose, California. The Santa Clara facilities are leased through June 1998 and have approximately .1 million square feet of office space. The Company's main headquarters are situated on 221 acres of leased land in San Jose, California. There are 15 buildings located at this site, one of which is a manufacturing facility. The San Jose headquarters consist of approximately 1.6 million square feet of leased office space at the present time. A new site is under construction that is located near its present corporate offices in San Jose, California. The Company expects that initial construction on the site will be completed in April 1998, with total leased office space of

approximately 1.1 million square feet.

As part of the StrataCom acquisition, the Company also assumed certain operating leases for buildings. The buildings, including an additional manufacturing facility, are located at various sites in San Jose, California and total approximately .5 million square feet.

In addition to the California facilities, the Company leases approximately 45 acres of land in Research Triangle Park, North Carolina, where the InterWorks Business Unit, as well as a Technical Assistance Center, telesales, and various other support functions, are located. Three buildings of approximately .3 million square feet have been constructed and are currently occupied under a lease that expires in July 1999. A fourth building of .1 million square feet is currently under construction with completion expected in the second quarter of fiscal 1998.

The Company also leases various small offices throughout the U.S. and on a worldwide basis. For additional information regarding the Company's obligations under leases, see Note 7 "Commitments and Contingencies" on page 43 of the Company's 1997 Annual Report to Shareholders, which is hereby incorporated by reference.

ITEM 3. LEGAL PROCEEDINGS

None.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

No matters were submitted to a vote of security holders during the fourth quarter of the fiscal year covered by this report.

EXECUTIVE OFFICERS OF THE REGISTRANT

NAME	AGE	POSITION	POSITION HELD SINCE
Larry R. Carter	54	Senior Vice President, Finance and Administration, Chief Financial Officer, and Secretary Mr. Carter joined the Company in January 1995 in his present position. From July 1992 to January 1995, he was Vice President and Corporate Controller for Advanced Micro Devices. Prior to that, he was with V.L.S.I. Technology, Inc. for four years where he held the position of Vice President, Finance and Chief Financial Officer.	1995
John T. Chambers	48	President, Chief Executive Officer and Director Mr. Chambers has been a member of the Board of Directors since November 1993. He joined the Company as Senior Vice President in January 1991 and became Executive Vice President in June 1994. Mr. Chambers became President and Chief Executive Officer of the Company as of January 31, 1995. Prior to his services at Cisco, he was with Wang Laboratories for eight years, most recently as Senior Vice President of U.S. Operations.	1995
Gary Daichendt	47	Senior Vice President, Worldwide Operations Mr. Daichendt joined the Company in October 1994 as Vice President for Intercontinental Operations, covering Asia, Pacific Rim, Canada, Central and South America and Mexico. In October 1997, Mr. Daichendt became Sr. Vice President, Worldwide Operations at Cisco Systems. He is responsible for managing the sales and distribution operations of Cisco offices worldwide. Prior to his services at Cisco, he spent eight years at Wang Laboratories, most recently as Vice President of Central Operations and Vice President of Worldwide Marketing. Mr. Daichendt also spent ten years with IBM in various sales, marketing, and management positions.	1997
Edward R. Kozel	42	Senior Vice President and Chief Technical Officer Mr. Kozel, has been a member of the Board of Directors since November 1996. He joined the Company as Director, Program Management in March 1989. In April 1992, became Director of Field Operations and in February 1993, he became Vice President of Business Development. Since January 1996, he has been Chief Technology Officer of the Company. Mr. Kozel currently serves on the Board of Directors of Cybercash, Inc. and NetFrame Systems, Inc.	1996
Donald J. Listwin	38	Senior Vice President, Service Provider Line of Business Mr. Listwin joined the Company in 1990 as a Product Marketing Manager. He held various positions within the marketing department before being promoted to Vice President of Marketing in September 1993. Mr. Listwin was promoted to Vice President and General Manager of the Access Business Unit in September of 1995. He became Senior Vice President of Cisco IOS Development and Marketing in August of 1996. Since April 1997, Mr. Listwin has been the Senior Vice President of the Service Provider Line of Business. Mr. Listwin currently serves on the Board of Directors of Software.com.	1997

NAME	AGE	POSITION	POSITION HELD SINCE
Mario Mazzola	50	Senior Vice President, Enterprise Line of Business Mr. Mazzola was the President and CEO of Crescendo Communications, Inc. which he founded in 1990. Crescendo was acquired by Cisco Systems in September 1993. At that time, Mr. Mazzola joined Cisco as the Vice President and General Manager of the Workgroup Business Unit. Mr. Mazzola became Senior Vice President of the Enterprise Line of Business in April 1997. Mr. Mazzola was the VP of Engineering of David Systems which he co-founded in June 1982. Mr. Mazzola holds several patents on high-speed transmission techniques on unshielded twisted-pair wiring.	1997
Carl Redfield	50	Senior Vice President, Manufacturing Mr. Redfield joined the Company in August 1993 as Director, Supply/Demand of Manufacturing and became Vice President of Manufacturing in September 1993. Prior to joining Cisco, he spent eighteen years at Digital Equipment Company, most recently as Group Manufacturing and Logistics Manager of the PC Group.	1993

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY AND RELATED STOCKHOLDER MATTERS

The information required by this Item is incorporated by reference to page 51 of the Company's 1997 Annual Report to Shareholders.

ITEM 6. SELECTED FINANCIAL DATA

The information required by this Item is incorporated by reference to page 21 of the Company's 1997 Annual Report to Shareholders.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The information required by this Item is incorporated by reference to pages 22-30 of the Company's 1997 Annual Report to Shareholders.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The information required by this Item is incorporated by reference to pages 25-27 of the Company's 1997 Annual Report to Shareholders.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The information required by this Item is incorporated by reference to pages 31-51 of the Company's 1997 Annual Report to Shareholders.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

PART III

ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

Reference is made to the information regarding Directors appearing under the caption "Election of Directors" in the Company's proxy statement mailed to Shareholders on or about October 1, 1997, which information is incorporated herein by reference; and to the information under the heading "Executive Officers of the Registrant" in Part I hereof.

ITEM 11. EXECUTIVE COMPENSATION

The information appearing at the end of Part I and under the caption "Executive Compensation and Related Information" in the Company's proxy statement mailed to Shareholders on or about October 1, 1997, is incorporated herein by reference.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The information appearing under the captions "Election of Directors" and "Ownership of Securities" in the Company's proxy statement mailed to Shareholders on or about October 1, 1997, is incorporated herein by reference.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

The information appearing under the caption "Ownership of Securities" and "Certain Relationships and Related Transactions" in the Company's proxy statement mailed to Shareholders on or about October 1, 1997, is incorporated herein by reference.

PART IV

ITEM 14. EXHIBITS, FINANCIAL STATEMENT SCHEDULE AND REPORTS ON FORM 8-K

- (a)
 - 1. Financial Statements

The financial statements listed in Item 14(a) are filed or incorporated by reference as part of this annual report. See Index to Financial Statements and Financial Statement Schedule on Page 20.
 - 2. Financial Statement Schedule

The financial statement schedule listed in Item 14(a) is filed as part of this annual report. See Index to Financial Statements and Financial Statement Schedule on Page 20.
 - 3. Exhibits

The exhibits listed in the accompanying Index to Exhibits on pages 23-25 are filed or incorporated by reference as part of this annual report.
- (b) Reports on Form 8-K

The Company filed one report on form 8-K during the fourth quarter ended July 26, 1997. The date of the filing was July 1, 1997. The item reported on was the acquisition of Global Internet Software Group.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant has duly caused this Report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of San Jose, State of California on this 17th day of October, 1997.

Cisco Systems, Inc.

/s/ John T. Chambers

*(John T. Chambers, President and
Chief Executive Officer)*

Pursuant to the requirements of the Securities Act of 1933, this Report on Form 10-K has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
<i>/s/ John T. Chambers</i> ----- John T. Chambers	President and Chief Executive Officer (Principal Executive Officer and Director)	October 17, 1997
<i>/s/ Larry R. Carter</i> ----- Larry R. Carter	Senior Vice President, Finance and Administration, Chief Financial Officer and Secretary (Principal Financial and Accounting Officer)	October 17, 1997
<i>/s/ John P. Morgridge</i> ----- John P. Morgridge	Chairman of the Board and Director	October 17, 1997
<i>/s/ Donald T. Valentine</i> ----- Donald T. Valentine	Vice Chairman of the Board and Director	October 17, 1997
<i>/s/ Carol A. Bartz</i> ----- Carol A. Bartz	Director	October 17, 1997
<i>/s/ James F. Gibbons</i> ----- Dr. James F. Gibbons	Director	October 17, 1997
<i>/s/ Edward R. Kozel</i> ----- Edward R. Kozel	Senior Vice President, Chief Technical Officer and Director	October 17, 1997
<i>/s/ Richard M. Moley</i> ----- Richard M. Moley	Director	October 17, 1997

Signature

Title

Date

/s/ Robert L. Puette

Director

October 17, 1997

Robert L. Puette

Director

October , 1997

Masayoshi Son

/s/ Steven M. West

Director

October 17, 1997

Steven M. West

CISCO SYSTEMS, INC.

**INDEX TO FINANCIAL STATEMENTS
AND FINANCIAL STATEMENT SCHEDULE**

ITEM 14(a)

	Page	

		1997 Annual Report to Shareholders
	Form 10-K	
Data incorporated by reference from the 1997 Annual Report to Shareholders of Cisco Systems, Inc.:		
Financial Statements:		
Consolidated statements of operations for each of the three years in the period ended July 26, 1997	31	
Consolidated balance sheets at July 26, 1997 and July 28, 1996	32	
Consolidated statements of cash flows for each of the three years in the period ended July 26, 1997	33	
Consolidated statements of shareholders' equity for each of the three years in the period ended July 26, 1997.....	34-35	
Notes to consolidated financial statements.....	36-49	
Report of Independent Accountants.....	50	
Supplementary financial data: Fiscal years 1997 and 1996 by quarter (unaudited)	51	
Data submitted herewith:		
Financial Statement Schedule:		
Report of independent accountants.....	21	
II Valuation and qualifying accounts.....	22	

All other schedules have been omitted since the required information is not present in amounts sufficient to require submission of the schedules, or because the information required is included in the consolidated financial statements or notes thereto.

With the exception of the consolidated financial statements and the independent accountants' report thereon listed in the above index, the information referred to in Items 1, 5, 6, 7 and 7A and the supplementary quarterly financial information referred to in Item 8, all of which is included in the Company's Annual Report to Shareholders incorporated by reference into this Form 10-K Annual Report, the 1997 Annual Report to Shareholders is not to be deemed "filed" as part of this report.

REPORT OF INDEPENDENT ACCOUNTANTS

Board of Directors and Shareholders
Cisco Systems, Inc.
San Jose, California

Our report on the consolidated financial statements of Cisco Systems, Inc. and its subsidiaries has been incorporated by reference in this Form 10-K from Page 50 of the 1997 Annual Report to Shareholders of Cisco Systems, Inc. In connection with our audits of such financial statements, we have also audited the related financial statement schedule listed in the index on page 20 of this Form 10-K.

In our opinion, the financial statement schedule referred to above, when considered in relation to the basic financial statements taken as a whole, presents fairly, in all material respects, the information required to be included therein.

/s/ Coopers & Lybrand L.L.P.

*San Jose, California
August 4, 1997*

CISCO SYSTEMS, INC.

**SCHEDULE II
VALUATION AND QUALIFYING ACCOUNTS
(In thousands)**

	Balance at Beginning of Period	Charged to Expenses	Deductions	Balance at End of Period
	-----	-----	-----	-----
Year ended July 30, 1995:				
Allowance for doubtful accounts	9,882	15,213	6,668	18,427
Allowance for excess and obsolete inventory	19,531	55,783	29,072 (1)	46,242
Year ended July 28, 1996:				
Allowance for doubtful accounts	18,427	18,548	15,901	21,074
Allowance for excess and obsolete inventory	46,242	53,025	37,481 (1)	61,786
Year ended July 26, 1997:				
Allowance for doubtful accounts	21,074	13,318	12,052	22,340
Allowance for excess and obsolete inventory	61,786	123,431	104,404 (1)	80,813

(1) Deductions principally relate to charges for standards changes.

INDEX TO EXHIBITS

(Item 14 (a))

Exhibit Number -----	Exhibit Description -----
2.01**	Agreement and Plan of Reorganization dated as of September 20, 1993 among the Company, Crescendo Communications Inc., and Co Acquisition Corporation
2.02**	Agreement of Merger among the Company, Crescendo Communications Inc., and Co Acquisition Corporation
2.03#	Agreement and Plan of Reorganization dated as of July 11, 1994 among the Company, Newport Systems Solutions, Inc. and New Acquisition Corporation
2.04@	Agreement and Plan of Reorganization dated as of October 21, 1994 among the Company, Kalpana, Inc. and Pan Acquisition Corporation
2.05@@	Asset Purchase Agreement dated as of December 8, 1994 among the Company and LightStream Corporation
2.06&	Agreement and Plan of Reorganization by and among the Company, Jet Acquisition Corporation, and StrataCom, Inc., dated as of April 21, 1996
3.01*	The Company's Restated Articles of Incorporation, as currently in effect
3.02*	The Company's Bylaws, as currently in effect
4.01##	The Company's 1987 Stock Option Plan, as currently in effect
4.02*	Form of Incentive Stock Option Agreement for granting incentive stock options under the Company's 1987 Stock Option Plan
4.03*	Series A Preferred Stock Purchase Agreement between the Company and certain investors dated December 22, 1987, as amended
10.05*	Form of Restricted Stock Purchase Agreement for sales of Common Stock to employees, officers, directors and consultants
10.10*	License Agreement between the Company and Network Equipment Technologies Inc dated February 14, 1989
10.12*	License Agreement between the Company and The Board of Trustees of Leland Stanford Junior University dated April 15, 1987, as amended
10.13*	1989 Employee Stock Purchase Plan
10.14	Cisco Systems, Inc. Senior Management Incentive Plan- President, Vice President & Director Fiscal Year 1997
10.16*	Agreement between the Company and American Telephone and Telegraph Company dated February 1, 1990
10.19*	Letter of Employment between the Company and John T. Chambers dated January 9, 1991
10.23*	Lease Agreement between the Company and SGA Development Partnership, Ltd., dated February 19, 1993, for the Company's site in San Jose, California
10.24*	Lease Agreement between the Company and Sumitomo Bank Leasing and Finance, Inc., dated May 13, 1993 for the Company's facilities in San Jose, California
10.25*	Lease Agreement between the Company and SGA Development Partnership, Ltd., dated February 19, 1993, for the Company's site in San Jose, California
10.26*	Lease Agreement between the Company and the State of California Public Employees' Retirement System dated March 11, 1993, for the Company's facilities at 3100 Smoketree Court
10.27*	Lease Agreement between the Company and Sumitomo Bank Leasing and Finance, Inc., dated July 11, 1994 for the Company's site in Wake County, North Carolina
10.28*	Lease Agreement between the Company and Sumitomo Bank Leasing and Finance, Inc., dated August 12, 1994 for the Company's facilities in Wake County, North Carolina

Exhibit Number -----	Exhibit Description -----
10.29&&	Lease (Buildings "I" and "J") by and between Sumitomo Bank of New York Trust Company ("SBNYTC"), as trustee under that certain Trust Agreement dated May 22, 1995 between Sumitomo Bank Leasing and Finance, Inc. and SBNYTC ("SB Trust"), as Landlord, and the Company, as tenant, dated May 22, 1995
10.30&&	First Amendment to Lease (Buildings "I" and "J") between SB Trust and the Company, dated July 18, 1995
10.31&&	Lease (Buildings "K" and "L") by and between SB Trust and the Company, dated May 22, 1995
10.32&&	First Amendment to Lease (Buildings "K" and "L") between SB Trust and the Company, dated July 18, 1995
10.33&&	Lease (Improvements Phase "C") by and between SB Trust and the Company, dated May 22, 1995
10.34&&	First Amendment to Lease (Improvements Phase "C") between SB Trust and the Company, dated July 18, 1995
10.35&&	Ground Lease (Parcel 2 and Lot 54) by and between Irish Leasing Corporation ("Irish"), as Landlord, and the Company, as Tenant, dated February 28, 1995 for the Company's site in San Jose, California
10.36&&	First Amendment to Lease (Parcel 2 and Lot 54) by and between Irish and the Company dated as of May 1, 1995
10.37&&	Second Amendment to Lease (Parcel 2 and Lot 54) by and between Irish and the Company dated as of May 22, 1995
10.38&&	Ground Lease (Lots 58 and 59) by and between Irish and the Company dated February 28, 1995 for the Company's site in San Jose, California
10.39&&	First Amendment to Lease (Lots 58 and 59) by and between Irish and the Company dated as of May 1, 1995
10.40&&	Second Amendment to Lease (Lots 58 and 59) by and between Irish and the Company dated as of May 22, 1995
10.41&&	Ground Lease (Tasman Phase C) by and between Irish and the Company dated April 12, 1995 for the Company's site in San Jose, California
10.42&&	First Amendment to Lease (Tasman Phase C) by and between Irish and the Company dated as of May 1, 1995
10.43&&	Second Amendment to Lease (Tasman Phase C) by and between Irish and the Company dated as of May 22, 1995
10.44&&	Credit Agreement between the Company, the Banks Listed Herein, Bank of America National Trust and Savings Association, as Administrative Agent, Morgan Guaranty Trust Company of New York, as Documentation Agent and Bank of America National Trust and Savings Association, as Issuing Bank dated as of May 22, 1995
10.45(1)	Employment Agreement with Don LeBeau
10.46(2)	Lease Agreement between the Company and First State Realty of America, Inc., dated February 7, 1997, for the Company's site in Santa Clara, California
10.47(2)	Lease Agreement between the Company and Berg & Berg Enterprises, Inc., dated December 31, 1996, for the Company's site in Santa Clara, California
10.48(2)	Lease (Buildings "A" and "C") by and between SBC&D Co., Inc. and the Company, dated November 26, 1996, located in San Jose, California
10.49(2)	Lease (Buildings "B" and "D") by and between SBC&D Co., Inc. and the Company, dated November 26, 1996, located in San Jose, California
10.50	Lease agreement between the Company and Lincoln-Whitehall Realty(West) L.L.C., dated December 12, 1996, for the Company's site in San Jose, CA
10.51	Lease agreement between the Company and Lincoln-Whitehall Realty(West) L.L.C., dated December 18, 1996, for the Company's site in San Jose, CA
10.52	Master Lease between the Company, as the Lessee, and UBS MORTGAGE FINANCE INC. as the Lessor, dated December 27, 1996

10.53	Credit Agreement dated as of July 2, 1997 among Cisco Systems, Inc., and Citicorp USA, Inc., as Administrative Agent, Morgan Guaranty Trust Company of New York, as Documentation Agent, Bank of America National Trust and Savings Association, the Chase Manhattan Bank, as Co-Agents, and Citicorp Securities, Inc., and J.P. Morgan Securities Inc. Arrangers
11.01	Statement Regarding Computation of Net Income Per Share
13.01	Pages 21 through 51 of the Registrant's 1997 Annual Report to Shareholders
21.01	Subsidiaries of the Company
23.02	Consent of Independent Accountants
27	Financial Data Schedule

* Previously filed with registrant's registration statements (File #33-32778)

** Previously filed with registrant's Form 8-K dated October 8, 1993

@ Previously filed with registrant's Form 8-K dated December 9, 1994

@@ Previously filed with registrant's Form 8-K dated January 25, 1995

Previously filed with registrant's Form 8-K dated August 19, 1994

Previously filed with registrant's Proxy statement dated October 2, 1995

& Previously filed with registrant's Form S-4 dated June 7, 1996

&& Previously filed with registrant's Form 10-K dated October 26, 1995

(1) Previously filed with registrant's Form 10-Q dated January 25, 1997

(2) Previously filed with registrant's Form 10-Q dated April 26, 1997

EXHIBIT 10.14

**CISCO CONFIDENTIAL
CISCO SYSTEMS, INC.**

**SENIOR MANAGEMENT INCENTIVE PLAN
FY 1997**

I. INTRODUCTION

A. THE OBJECTIVE OF THE SENIOR MANAGEMENT INCENTIVE PLAN is to financially reward Senior Managers for their contributions to the success and profitability of Cisco Systems, Inc.

B. PARTICIPANTS: This plan applies solely to Cisco Systems, Inc. senior management staff in the following positions:

POSITION

President
Vice Presidents
Directors (excluding Operations Directors) Managers, Grade 12 , Individual Contributors, Grade 13

Any exceptions to the above will need to be approved in writing by the President. The participant must be employed in a bonus eligible position on or before the first day of the last fiscal quarter of Fiscal Year 1997 and must be employed on the last working day of that year and may not be concurrently enrolled in any other bonus, sales, or incentive plan. Participants in the Plan with less than one year of service will be eligible for a prorated bonus amount. In no event will any individual accrue any right or entitlement to a bonus under this Plan unless that individual is employed by Cisco Systems on the last working day of Fiscal Year 1997.

C. EFFECTIVE DATE: The Plan is effective for the Fiscal Year 1997, beginning July 29, 1996 through July 26, 1997.

D. CHANGES IN PLAN: The Company presently has no plan to change the Senior Management Incentive Plan during the fiscal year. However, the Company reserves the right to modify the Senior Management Bonus Plan in total or in part, at any time. Any such change must be in writing and signed by the President. The President or plan designers reserve the right to interpret the plan document as needed.

E. ENTIRE AGREEMENT: This Plan is the entire agreement between Cisco Systems, Inc. and the employee regarding the subject matter of this Plan and supersedes all prior compensation or incentive plans or any written or verbal representations regarding the subject matter of this Plan.

II. BONUS PLAN ELEMENTS

A. BASE SALARY is determined by the participant's manager, on the Focal review date scheduled for either August 1, April 1, or October 1 of each year. The annual base salary in effect at the end of the Fiscal Year 1997 represents the basis for the bonus calculation.

B. BONUS BASIS PERCENTAGE is a percentage level of base salary determined by the position.

POSITION	BONUS %
-----	-----
President	75%
Vice President	50%
Directors (excluding Operations Directors)	40%
Managers, Grade 12 & Individual Contributors, Grade 13	30%

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C. INDIVIDUAL PERFORMANCE FACTOR is based upon the manager's evaluation of performance and contribution for the fiscal year. This factor may range from .9 - 1.3. The assigned factor may also be a zero resulting in no bonus based on the manager's evaluation of performance and contribution. A written performance evaluation is required in conjunction with any assigned factor of zero.

Employees who are on a Written Warning or Performance Improvement Plan and/or are performing at a level of "Not Satisfactory" (N) at the end of the fiscal year are not eligible to receive a bonus. Any exceptions to this must be in writing and approved by the Vice President of Human Resources.

D. COMPANY PERFORMANCE FACTOR consists of two elements: 50% based upon achieving an established worldwide Revenue target and 50% based upon achieving a worldwide Profit Before Interest and Tax (PBIT) target per the current Plan. 80% of each objective must be achieved for any bonus to be paid. The applicable targets for Fiscal Year 1997 are approved by the Cisco Board of Directors within the first 90 days of each fiscal year.

REVENUE	PBIT	COMPANY PERFORMANCE FACTOR	MULTIPLIER
-----	----	-----	-----
<80%	<80%	<80%	0 (no bonus paid)
80-100%	80-100%	80-100%	.8 - 1.0
>100%	>100%	101%+	4% for each 1% above 100%
			5% for each 1% above 120%

COMPANY PERFORMANCE FACTOR = (REVENUE + PBIT)/2

Example:

Actual Revenue Performance is 105% of goal

Actual PBIT Performance is 115% of goal

$$105\% + 115\% = 220\%$$

$$2$$

COMPANY PERFORMANCE MULTIPLIER: = 1.40

E. CUSTOMER SATISFACTION FACTOR is based upon achievement of an overall worldwide customer satisfaction survey score. This factor may range from .95 - 1.20.

WORLDWIDE SATISFACTION SCORE	FACTOR
-----	-----
<3.95	.95
3.95 - 4.07	1.05
4.08 - 4.14	1.10
4.15+	1.20

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H. BONUS PAYMENTS: If company performance is at a minimum of 100% of mid-year revenue and PBIT targets, a partial payment will be distributed to active employees midway through the fiscal year. This advance will be 50% of the bonus target by level net of any advances, draws, or prorations. The bonuses will go to employees who have met job expectations and were hired on or before the first day of the second quarter of Fiscal Year 1997 and are active on the day of distribution. For example, a director would receive an advance equal to 20% of base salary. In no event, however, will any right or entitlement to such a partial payment accrue to any eligible participant unless that individual is employed by Cisco Systems on the distribution date. The balance (if any) will be paid after the close of the fiscal year, typically in mid to late August.

III. PROCEDURES AND PRACTICES

A. PROCEDURE:

1. A list of eligible employees will be sent by Human Resources to the Executive Staff for review at the beginning of the fiscal year. Additions, deletions or other changes to the list will be made and the approved list will be returned to Human Resources.
2. Once the list is confirmed, a copy of the Plan will be sent to each participant.
3. Each eligible new hire and employees promoted into eligible positions will receive a copy of the plan during the fiscal year.
4. A month before fiscal year end, a list of eligible employees with all changes made during the year will again be sent to the Executive Staff for final review and approval.
5. All bonus payments will be made net of applicable withholding taxes.

B. BUSINESS CONDUCT: It is the established policy of Cisco Systems, Inc. to conduct business with the highest standards of business ethics. Cisco employees may not offer, give, solicit or receive any payment that could appear to be a bribe, kickback or other irregular type of payment from anyone involved in any way with an actual or potential business transaction. Gifts, favors and entertainment are allowed such that they are consistent with our business practice, do not violate any applicable laws, are of limited value (\$50.00 or less) and would not embarrass Cisco if publicly disclosed.

C. TRANSFERS AND TERMINATIONS: Employees who are participants in the Senior Management Incentive Plan and who transfer to a new position not governed by this Plan will be eligible on a pro-rata basis for the applicable period and paid as defined by the Plan. Any exceptions to the Plan must be designated in writing and approved by the President.

A participant must be employed as of the last working day of the fiscal year to be eligible for the bonus and must be employed on the distribution date in order to be eligible to receive a partial payment under paragraph II-H. If an employee terminates prior to the applicable date, the employee will not be eligible for such bonus or partial payment.

D. EMPLOYMENT AT WILL: The employment of all Plan participants at Cisco Systems, Inc. is for an indefinite period of time and is terminable at any time by either party, with or without cause being shown or advance notice by either party. This Plan shall not be construed to create a contract of employment for a specified period of time between Cisco Systems, Inc. and any Plan participant.

FY'97 SENIOR MGMT INCENTIVE PLAN 9/26/96

CISCO CONFIDENTIAL

EXHIBIT 10.50

**LEASE AGREEMENT
(NNN)**

BASIC LEASE INFORMATION

LEASE DATE: December 12, 1996

LANDLORD: Lincoln-Whitehall Realty (West), L.L.C.,
a Delaware limited liability company

LANDLORD'S ADDRESS: c/o Lincoln Property Company Management Services, Inc.
101 Lincoln Centre Drive, Fourth Floor
Foster City, California 94404-1167

TENANT: Cisco Systems, Inc., a California corporation

TENANT'S ADDRESS: 170 W. Tasman Drive
San Jose, California 95124
Attention: Chris Hampton, Director, Real Estate Worldwide

PREMISES: Approximately 103,890 rentable square feet as shown on Exhibit A

PREMISES ADDRESSES: Building A: 110 Baytech Drive, San Jose, California 95134
Building B: 120 Baytech Drive, San Jose, California 95134

BUILDINGS (A & B): Approximately 103,890 rentable square feet
LOT (PARK'S TAX PARCEL): APN 015-30-093
PARK (LINCOLN BAY TECH PARK): Approximately 188,825 rentable square feet

TERM: July 1, 1997 ("Commencement Date"), through December 31, 2000
("Expiration Date"), subject to the provisions of Section 2 hereof

BASE RENT (Paragraph 3): One hundred fifty thousand six hundred forty and 50/100 dollars
(\$150,640.50) per month (\$1.45 per rentable square foot), commencing on the
Commencement Date through June 30, 1998.

ADJUSTMENTS TO BASE RENT: Effective July 1, 1998 through June 30, 1999, Base Rent shall increase to
\$155,835.50 per month (\$1.50 per rentable square foot).
Effective July 1, 1999 through June 30, 2000, Base Rent shall increase to
\$161,029.50 per month (\$1.55 per rentable square foot).
Effective July 1, 2000 through December 31, 2000, Base Rent shall increase
to \$166,224.00 per month (\$1.60 per rentable square foot).

SECURITY DEPOSIT (Paragraph 4): Waived

*TENANT'S SHARE OF OPERATING EXPENSES (Paragraph 6.1): 55% of the Park
*TENANT'S SHARE OF TAX EXPENSES (Paragraph 6.2): 55% of the Park
*TENANT'S SHARE OF COMMON AREA UTILITY COSTS (Paragraph 7): 55% of the Park
*TENANT'S SHARE OF UTILITY EXPENSES (Paragraph 7): 55% of the Park
*The amount of Tenant's Share of the expenses as referenced above shall be subject to modification as set forth
in this Lease.

PERMITTED USES (Paragraph 9): General office, industrial, assembly, light manufacturing and distribution of
computer products, but only to the extent permitted by the City of San Jose
and all agencies and governmental authorities having jurisdiction thereof

UNRESERVED
PARKING SPACES: Four hundred sixteen (416) non-exclusive and undesignated spaces

BROKERS (Paragraph 38): Dennis Chambers of CPS for Tenant
Wayne Mascia Associates for Landlord

EXHIBITS: Exhibit A - Premises, Building, Lot and/or Park
Exhibit B - Tenant Improvements
Exhibit C - Rules and Regulations
Exhibit D - Covenants, Conditions and Restrictions (Intentionally Omitted)
Exhibit E - Hazardous Materials Disclosure Certificate - Example
Exhibit F - Change of Commencement Date - Example
Exhibit G - Tenant's Initial Hazardous Materials Disclosure Certificate
Exhibit H - Sign Criteria

ADDENDA: Addendum 1: First Option to Extend the Lease
Addendum 2: Second Option to Extend the Lease

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LEASE AGREEMENT

DATE: This Lease is made and entered into as of the Lease Date set forth on Page 1. The Basic Lease Information set forth on Page 1 and this Lease are and shall be construed as a single instrument.

1. PREMISES: Landlord hereby leases the Premises to Tenant upon the terms and

conditions contained herein. Landlord hereby grants to Tenant a license for the right to use, on a non-exclusive basis, parking areas and ancillary facilities located within the Common Areas of the Park, subject to the terms of this Lease; provided, however, such license shall only be revocable (i) if Tenant is in default of its obligations under this Lease beyond applicable cure periods, or (ii) upon the expiration or earlier termination of this Lease. For purposes of this Lease, the term "Premises" shall mean and refer to the entirety of both of the Buildings, namely, Building A and Building B situated within the Park. Landlord and Tenant hereby agree that for purposes of this Lease, as of the Lease Date, the rentable square footage area of the Premises, the Buildings, the Lot and the Park shall be deemed to be the number of rentable square feet as set forth in the Basic Lease Information on Page 1; provided, however, within fifteen (15) days after the date on which Landlord causes the Buildings to be Substantially Completed (as such term is defined in Exhibit B hereto), Tenant may have its architect verify the actual rentable square feet contained within the Premises (i.e. the Buildings), provided that the basis of such measurement shall be measured from drip line to drip line and not in accordance with BOMA standards. Tenant hereby acknowledges that the rentable square footage of the Premises may include a proportionate share of certain areas used in common by all occupants of the Buildings (for example an electrical room or telephone room). Landlord and Tenant hereby acknowledge and agree that as of the Lease Date the Buildings have not been constructed on the Lot. After Landlord has Substantially Completed (as such term is defined in Exhibit B hereto) the Shell Improvements, Landlord and Tenant shall execute a written amendment to this Lease, substantially in the form of Exhibit F hereto, wherein the parties shall specify the (i) actual approximate rentable square footage of each of the Premises, the Buildings and the Park, (ii) actual amount of Base Rent to be paid by Tenant, which shall be based upon the amount of base rent per rentable square foot as set forth in the Basic Lease Information, (iii) actual amount of Tenant's Share of the expenses set forth in the Basic Lease Information, which share shall be based upon such approximate rentable square footages, and (iv) the Premises Addresses. Tenant further agrees that the number of rentable square feet of the Buildings, the Lot and the Park may subsequently change after the Lease Date commensurate with any modifications to any of the foregoing by Landlord due to any casualty to, or condemnation of, any portion of the Premises, and Tenant's Share shall accordingly change.

2. ADJUSTMENT OF COMMENCEMENT DATE; CONDITION OF THE PREMISES:

2.1 If on the Commencement Date (a) Landlord has not delivered possession of the Premises with only the Shell Improvements (defined in Exhibit B hereto) Substantially Completed, and (b) Tenant has not Substantially Completed the Tenant Improvements, Landlord shall not be subject to any liability nor shall the validity of the Lease be affected; provided, subject to the provisions set forth below, the Lease Term and the obligation to pay Rent shall commence on the date which is the earlier to occur of (i) the date on which Tenant has Substantially Completed the Tenant Improvements (defined in Exhibit B hereto), or (ii) the date which is ninety (90) business days after Landlord has Substantially Completed the Shell Improvements (provided, said 90-business day period may be extended by a maximum of an additional period of 30 days if Tenant is delayed from Substantially Completing the Tenant Improvements wholly due either to delays attributable to Landlord's failure to timely perform its obligations with respect to the Shell Improvements because of events within Landlord's control (the "Landlord Delays") or events considered to be Force Majeure Delays (defined in Exhibit B hereto). The Expiration Date shall also be extended commensurately therewith. In addition to the foregoing and notwithstanding anything to the contrary contained herein or in Exhibit B hereto, if Landlord does not tender possession to Tenant of the Premises with the Shell Improvements Substantially Complete by November 15, 1997 (the "Outside Date") (subject to any Force Majeure Delays or Tenant Delays, in which event the date of November 15, 1997 shall be extended commensurately by the period of time attributable to such delays), then either Tenant or Landlord may terminate this Lease by delivering written notice thereof to the other party no later than the date which is ten (10) business days after the Outside Date, as extended by the period of time attributable to any Force Majeure Delays and/or Tenant Delays. In addition to the foregoing and notwithstanding anything to the contrary contained herein or in Exhibit B hereto, if Landlord does not tender possession to Tenant of the Premises with the Shell Improvements Substantially Complete by March 1, 1998 (the "Ultimate Outside Date") (subject to any Tenant Delays, in which event the date of March 1, 1998 shall be extended commensurately by the period of time attributable to such delays), then either Tenant or Landlord may terminate this Lease by delivering written notice thereof to the other party no later than the date which is ten (10) business days after the Ultimate Outside Date, as extended by the period of time attributable to any Tenant Delays. If either party fails to timely terminate the Lease as and when provided herein, or if Landlord delivers to Tenant possession of the Premises with the Tenant Improvements Substantially Complete at any time earlier than the Outside Date (as such date may be extended due to Force Majeure Delays or Tenant Delays, as the case may be) or the Ultimate Outside Date (as such date may be extended due to Tenant Delays), as applicable, then upon the occurrence of any such events the foregoing right given to Tenant and Landlord to terminate this Lease as provided herein shall lapse and be null and void upon the earlier occurrence of such event and the Lease shall remain in full force and effect with Tenant and Landlord having no further right to terminate this Lease pursuant to the foregoing provisions. If Landlord does so timely deliver to Tenant possession of the Premises with the Shell Improvements Substantially Complete, Tenant shall promptly deliver

written notice to Landlord confirming same. In the event the commencement date and/or the expiration date of this Lease is other than the Commencement Date and/or Expiration Date provided on Page 1 in the Basic Lease Information, as the case may be, Landlord and Tenant shall execute a written amendment to this Lease, substantially in the form of Exhibit F hereto, wherein the parties shall specify the actual commencement date, expiration date, the date on which Tenant is to commence paying Rent and the other matters referred to in Section 1 above. The word "Term" whenever used herein refers to the initial term of this Lease and any extension thereof. Except as otherwise expressly set forth below with regard to Punchlist Items, by taking possession of the Premises with only the Shell Improvements Substantially Completed, Tenant shall be deemed to have accepted the Premises in a good, clean and completed condition and state of repair. Notwithstanding the foregoing, within three (3) business days after the Substantial Completion (as such term is defined in Exhibit B hereto) of the Shell Improvements representatives of Landlord and Tenant shall make a joint inspection of the Shell Improvements and the results of each such inspection shall be set forth in a written list specifying the incomplete items as well as those items for which corrections need to be made (the "Punchlist Items"). Landlord and Tenant shall promptly (by no later than three (3) business days thereafter) and in good faith approve the written list of Punchlist Items. Landlord, at its sole cost and expense, shall use commercially reasonable efforts to cause the Punchlist Items to be promptly completed and/or corrected, as applicable. The performance of the work associated with the Punchlist Items shall be performed in such a manner so as not to preclude or substantially prevent Tenant's ability to construct the Tenant Improvements in the Premises. Upon the completion of the Punchlist Items to Tenant's reasonable satisfaction Tenant shall immediately notify Landlord in writing that such items have been completed to Tenant's reasonable satisfaction. In addition to the Punchlist Items, Landlord shall also use commercially reasonable efforts to cause the general contractor to correct any other patent deficiencies or defects in the Shell Improvements during the thirty (30) day period following Substantial Completion of the Shell Improvements. If Tenant fails to timely deliver to Landlord any such written notice of the aforementioned patent defects or deficiencies within said 30-day period, Landlord shall have no obligation to perform any such work thereafter, except as otherwise specifically provided in Sections 5 and 14 of this Lease. Tenant hereby acknowledges and agrees that neither Landlord nor Landlord's agents or representatives has made any representations or warranties as to the suitability, safety or fitness of the Premises for the conduct of Tenant's business, Tenant's intended use of the Premises or for any other purpose.

2.2 Landlord shall permit Tenant to enter and occupy the Premises prior to the Commencement Date for purposes of installing a portion of the Tenant Improvements and to perform Tenant's Pre-Occupancy Work (as such term is defined in Exhibit B hereto). Landlord shall consult with its general contractor and shall notify Tenant, in writing, of the date on which Tenant may commence such limited purpose occupancy. In no event may Tenant conduct its business or operations from the Premises until after the Commencement Date. Such limited purpose occupancy by Tenant shall be at Tenant's sole risk and shall also be subject to all of the provisions of this Lease other than the requirement to pay Rent (other than any Utility Expenses incurred during the time period Tenant is constructing the Tenant Improvements), including, but not limited to, the requirement to obtain the insurance required pursuant to this Lease (including without limitation, the provisions of Exhibit B hereto) and to deliver insurance certificates as required herein, and to pay for all utilities and Utility Expenses to the extent incurred during the time period Tenant is constructing the Tenant Improvements. In addition to the foregoing and the provisions of Exhibit B hereto regarding such early occupancy, Landlord shall have the right to impose such additional conditions on Tenant's early entry as Landlord shall deem reasonably appropriate. If, at any time, Tenant is in default of any term, condition or provision of this Lease, any such waiver by Landlord of Tenant's requirement to pay rental payments shall be null and void and Tenant shall immediately pay to Landlord all rental payments so waived by Landlord.

3. RENT: On the date that Tenant executes this Lease, Tenant shall deliver to Landlord the original executed Lease, the Base Rent (which shall be applied against the Rent payable for the first month Tenant is required to pay Base Rent), and all insurance certificates or, alternatively, the letter required pursuant to Section 12.5 hereof, evidencing the insurance required to be obtained by Tenant under Section 12 of this Lease and under the provisions of Exhibit B hereto. Tenant agrees to pay Landlord, without prior notice or demand, or abatement (except as otherwise set forth in Sections 27 and 41 hereof), offset, deduction or claim, the Base Rent described on Page 1, payable in advance at Landlord's address shown on Page 1 on the Commencement Date and thereafter on the first (1st) day of each month throughout the Term of the Lease. In addition to the Base Rent set forth on Page 1, Tenant shall pay Landlord in advance, on the Commencement Date and thereafter on the first (1st) day of each month throughout the Term of this Lease, as Additional Rent, Tenant's Share of Operating Expenses, Tax Expenses, Common Area Utility Costs, and Utility Expenses. The term "Rent" whenever used herein refers to the aggregate of all these amounts. If Landlord permits Tenant to occupy the Premises to conduct business operations therein without requiring Tenant to pay rental payments for a period of time, the waiver of the requirement to pay rental payments shall only apply to waiver of the Base Rent and Tenant shall otherwise perform all other obligations of Tenant required hereunder. The Rent for any fractional part of a calendar month at the commencement or termination of the Lease term shall be a prorated amount of the Rent for a full calendar month based upon a thirty (30) day month. The prorated Rent shall be paid on the Commencement Date and the first day of the calendar month in which the date of termination occurs, as the case may be.

4. SECURITY DEPOSIT: Intentionally omitted.

5. TENANT IMPROVEMENTS: Upon Substantial Completion by Landlord of the Shell Improvements and the completion by Landlord of any Punchlist Items, Tenant hereby agrees to accept the Premises in its then current

"AS IS" condition. Subject to the provisions of Exhibit B hereto, Tenant shall install the improvements ("Tenant Improvements") in the Premises in accordance with the terms, conditions, criteria and provisions set forth in Exhibit B hereto. Tenant acknowledges that neither Landlord nor any of Landlord's agents, representatives or employees has made any representations as to the suitability or fitness of the Premises for the conduct of Tenant's business, including without limitation, any storage incidental thereto, or for any other purpose, and that neither Landlord nor any of Landlord's agents, representatives or employees has agreed to undertake any alterations or construct any Tenant Improvements to the Premises except for the construction of the Shell Improvements as expressly provided in Exhibit B to this Lease. Notwithstanding the foregoing, Landlord shall allow Tenant to, concurrently with Landlord (if Landlord so desires, otherwise separately), make a claim against Landlord's general contractor for any patent or latent defects in the initial design or construction of the Shell Improvements for a period of five (5) years after the date on which the Shell Improvements are Substantially Completed. In addition to the foregoing, Tenant shall be entitled to enforce, concurrently with Landlord, any warranties made or given to Landlord from the general contractor and any major subcontractors with respect to the Shell Improvements. Notwithstanding anything to the contrary contained herein, Tenant shall allow Landlord to, concurrently with Tenant (if Tenant so desires, otherwise separately), or after the expiration or earlier termination of this Lease, individually, make a claim against Tenant's general contractor, namely Devcon Construction Inc. (the "Tenant's General Contractor") for any patent or latent defects in the initial design or construction of the Tenant Improvements for a period of five (5) years after the date on which the Tenant Improvements are substantially completed. In addition to the foregoing, Landlord shall be entitled to enforce, concurrently with Tenant, or after the expiration or earlier termination of this Lease, individually, any warranties made or given to Tenant from the Tenant's General Contractor and any major subcontractors with respect to the Tenant Improvements. Each of Landlord and Tenant shall be third party beneficiaries of the other party's construction agreements, and accordingly, each party hereby agrees to include a provision in their respective construction contracts to effectuate same.

6. ADDITIONAL RENT : It is intended by Landlord and Tenant that this Lease be a "triple net lease". The costs and expenses described in this Section 6 and all other sums, charges, costs and expenses specified in this Lease other than Base Rent are to be paid by Tenant to Landlord as additional rent (collectively, "Additional Rent").

6.1 OPERATING EXPENSES: In addition to the Base Rent set forth in Section 3, Tenant shall pay Tenant's Share, which is defined on Page 1, of all Operating Expenses as Additional Rent. The term "Operating Expenses" as used herein shall mean the total actual amounts paid or payable by Landlord in connection with the ownership, maintenance, repair and operation of the Premises, the Buildings and the Lot, and where applicable, of the Park referred to on Page 1. The amount of Tenant's Share of Operating Expenses shall be reviewed from time to time by Landlord and shall be subject to modification by Landlord if there is a change in the rentable square footage of the Premises, the Buildings and/or the Park due to any casualty or condemnation of any portion of the Premises. These Operating Expenses may include, but are not limited to:

6.1.1 Landlord's cost of repairs to, and maintenance of, the non-structural portions of the roof, the roof membrane and the non-structural portions of the exterior walls of the Buildings;

6.1.2 Landlord's cost of maintaining the outside paved area, landscaping and other common areas for the Park. The term "Common Areas" shall mean all areas and facilities within the Park exclusive of the Premises and the other portions of the Park leased exclusively to other tenants. The Common Areas include, but are not limited to, parking areas, access and perimeter roads, sidewalks, landscaped areas and similar areas and facilities;

6.1.3 Landlord's annual cost of insurance insuring against fire and extended coverage (including, if Landlord elects, "all risk" or "special purpose" coverage) and all other insurance, including, but not limited to, earthquake, flood and/or surface water endorsements for the Buildings, the Lot and the Park (including the Common Areas), rental value insurance against loss of Rent in an amount equal to the amount of Rent for a period of no more than twelve (12) months commencing on the date of loss, and subject to the provisions of Section 27 below, any commercially reasonable deductible;

6.1.4 Landlord's cost of: (i) modifications and/or new improvements to the Buildings, the Common Areas and/or the Park occasioned by any rules, laws or regulations effective subsequent to the date on which the Buildings are Substantially Completed; (ii) reasonably necessary replacement improvements to the Buildings, the Common Areas and the Park after the Commencement Date; and (iii) new improvements to the Buildings, the Common Areas and/or the Park that reduce operating costs or improve life/safety conditions, all as reasonably determined by Landlord, in its sole discretion; provided, however, if any of the foregoing are in the nature of capital improvements, then the cost of such capital improvements shall be amortized on a straight-line basis over a reasonable period, which shall not be less than the lesser of fifteen (15) years or the reasonably estimated useful life of such modifications, new improvements or replacement improvements in question (at an interest rate as reasonably determined by Landlord), and Tenant shall pay Tenant's Share of the monthly amortized portion of such costs (including interest charges) as part of the Operating Expenses herein;

6.1.5 If Landlord elects to so procure, Landlord's cost of preventative maintenance, and repair contracts including, but not limited to, contracts for elevator systems and heating, ventilation and air conditioning systems, lifts for disabled persons, and trash or refuse collection in the Buildings only;

6.1.6 Landlord's cost of security and fire protection services for the Buildings and/or the Park, as the case may be, if in Landlord's reasonable discretion such services are provided;

6.1.7 Landlord's cost for the creation and negotiation of, and pursuant to, any licenses, easements or other similar undertakings benefitting the Buildings or Tenant's use of portions of the Park to the extent incurred after the Commencement Date;

6.1.8 Landlord's cost of supplies, equipment, rental equipment and other similar items used in the operation and/or maintenance of the Park;

6.1.9 Landlord's cost for the repairs and maintenance items set forth in Section 11.2 below; and

6.1.10 Landlord's cost for the management and administration of the Premises, the Buildings, the Common Areas and the Park, including without limitation, a property management fee, accounting, auditing, billing, salaries for clerical and supervisory employees (whether located within the Park or off-site) and all fees, licenses and permits related to the ownership, operation and management of any portion of the Park in an amount not to exceed three percent (3%) of the Base Rent.

Notwithstanding anything to the contrary contained herein, for purposes of this Lease, the term "Operating Expenses" shall not include the following:

(a) Costs (including permit, license, and inspection fees) incurred in renovating, improving, decorating, painting, or redecorating vacant space or space for other tenants within the Park;

(b) Costs incurred because Landlord or another tenant actually violated the terms of any lease for premises within the Buildings and/or Park;

(c) Legal and auditing fees (other than those fees reasonably incurred in connection with the maintenance and operation of the Buildings and/or Park), leasing commissions, advertising expenses, and other costs incurred in connection with the original development or original leasing of the Buildings and/or Park or future re-leasing of the Buildings and/or Park;

(d) Depreciation of the Buildings or any other improvements situated within the Park;

(e) Any items for which Landlord is actually reimbursed by insurance or by direct reimbursement by any other tenant of the Buildings or Park;

(f) Costs of repairs or other work necessitated by fire, windstorm or other casualty (excluding any commercially reasonable deductibles) and/or costs of repair or other work necessitated by the exercise of the right of eminent domain to the extent insurance proceeds or a condemnation award, as applicable, is actually received by Landlord for such purposes; provided such costs of repairs or other work shall be paid by the parties in accordance with the provisions of Sections 27 and 28 below;

(g) Other than any interest charges for capital improvements referred to in Section 6.1.4 hereinabove, any interest or payments on any financing for the Buildings or the Park, interest and penalties incurred as a result of Landlord's late payment of any invoice (provided that Tenant pays Tenant's Share of Operating Expenses and Tax Expenses to Landlord when due as set forth herein), and any bad debt loss, rent loss or reserves for same;

(h) Costs associated with the investigation and/or remediation of Hazardous Materials (hereafter defined) present in, on or about the Premises, the Buildings or the Park, unless such costs and expenses are the responsibility of Tenant as provided in Section 29 of this Lease, in which event such costs and expenses shall be paid solely by Tenant in accordance with the provisions of Section 29 of this Lease;

(i) Costs of correcting defects in the initial design or construction of the Shell Improvements or the repair or replacement of any original materials and equipment as a result of such defects, as long as such defects are covered by warranties from the contractors performing such work and Landlord has actually received compensation therefor; and

(j) Landlord's cost for the repairs and maintenance items set forth in Section 11.3 below.

6.2 TAX EXPENSES: In addition to the Base Rent set forth in Section 3, Tenant shall pay its share, which is defined on Page 1, of all real property taxes applicable to the land and improvements included within the Lot on which the Premises are situated and one hundred percent (100%) of all personal property taxes now or hereafter assessed or levied against the Premises or Tenant's personal property. The amount of Tenant's Share of Tax Expenses shall be reviewed from time to time by Landlord and shall be subject to modification by Landlord if there is a change in the rentable square footage of the Premises, the Buildings and/or the Park. Tenant shall also pay one hundred percent (100%) of any increase in real property taxes attributable, in Landlord's sole discretion, to any and all alterations, Tenant Improvements or other improvements of any kind, which are above standard improvements customarily installed for similar buildings located within the Buildings or the Park (as applicable), whatsoever placed in, on or about the Premises for the benefit of, at the request

of, or by Tenant. The term "Tax Expenses" shall mean and include, without limitation, any form of tax and assessment (general, special, supplemental, ordinary or extraordinary), commercial rental tax, payments under any improvement bond or bonds, license fees, license tax, business license fee, rental tax, transaction tax, levy, or penalty imposed by authority having the direct or indirect power of tax (including any city, county, state or federal government, or any school, agricultural, lighting, drainage or other improvement district thereof) as against any legal or equitable interest of Landlord in the Premises, the Buildings, the Lot or the Park, as against Landlord's right to rent, or as against Landlord's business of leasing the Premises or the occupancy of Tenant or any other tax, fee, or excise, however described, including, but not limited to, any value added tax, or any tax imposed in substitution (partially or totally) of any tax previously included within the definition of real property taxes, or any additional tax the nature of which was previously included within the definition of real property taxes. The term "Tax Expenses" shall not include any (i) franchise, estate, inheritance, net income, or excess profits tax imposed upon Landlord, or (ii) any interest or penalties resulting solely from Landlord's failure to pay any Tax Expenses (excluding any failure on the part of Landlord to so timely make such payments due to Tenant's failure to timely make such payments to Landlord).

6.3 PAYMENT OF EXPENSES: Landlord shall estimate Tenant's Share of the Operating Expenses and Tax Expenses for the calendar year in which the Lease commences. Commencing on the Commencement Date, one-twelfth (1/12th) of this estimated amount shall be paid by Tenant to Landlord, as Additional Rent, on the first (1st) day of each month and throughout the remaining months of such calendar year. Thereafter, Landlord may reasonably estimate such expenses as of the beginning of each calendar year and Tenant shall pay one-twelfth (1/12th) of such estimated amount as Additional Rent hereunder on the first day of each month during such calendar year and for each ensuing calendar year throughout the Term of this Lease. Tenant's obligation to pay Tenant's Share of Operating Expenses and Tax Expenses shall survive the expiration or earlier termination of this Lease.

6.4 ANNUAL RECONCILIATION: By June 30th of each calendar year, or as soon thereafter as reasonably possible, Landlord shall endeavor to furnish Tenant with an accounting prepared with reasonable detail of actual Operating Expenses and Tax Expenses. Within thirty (30) days of Landlord's delivery of such accounting, Tenant shall pay to Landlord the amount of any underpayment. Notwithstanding the foregoing, failure by Landlord to give such accounting by such date shall not constitute a waiver by Landlord of its right to collect any of Tenant's underpayment at any time. Landlord shall credit the amount of any overpayment by Tenant toward the next Base Rent falling due, or where the Term of the Lease has expired, refund the amount of overpayment to Tenant. If the Term of the Lease expires prior to the annual reconciliation of expenses Landlord shall have the right to reasonably estimate Tenant's Share of such expenses, and if Landlord determines that an underpayment is due, Tenant hereby agrees to pay to Landlord the amount of such underpayment within thirty (30) days after Landlord's delivery of a demand therefor. If Landlord reasonably determines that an overpayment has been made by Tenant, Landlord shall refund said overpayment to Tenant within thirty (30) days after Landlord has made such determination. Notwithstanding the foregoing, failure of Landlord to accurately estimate Tenant's Share of such expenses or to otherwise perform such reconciliation of expenses, including without limitation, Landlord's failure to make a written demand for any underpayment from Tenant, shall not constitute a waiver of Landlord's right to collect any of Tenant's underpayment at any time during the Term of the Lease during the one (1) year period following the last day of the period to which such underpayment relates or at any time during the one (1) year period following the expiration or earlier termination of this Lease.

6.5 AUDIT: After delivery to Landlord of at least thirty (30) days prior written notice, Tenant, at its sole cost and expense, shall have the right to examine and/or audit the books and records evidencing such costs and expenses for the previous one (1) calendar year, during Landlord's reasonable business hours but not more frequently than once during any calendar year. Notwithstanding the foregoing, Tenant may only audit the books and records of Landlord with respect to the Premises and/or the Lease so long as Tenant fully complies with all of the following requirements: (i) any audit by Tenant shall be conducted by an accounting or audit firm or financial officer of Tenant; (ii) any audit shall be conducted in Landlord's offices during reasonable business hours, and after delivery to Landlord of at least thirty (30) days' prior written notice; (iii) Tenant may only audit the books and records for the previous one (1) year period in question and after the lapse of one (1) year from the date on which Landlord delivers to Tenant any accounting or statement regarding any rental payments to be made by Tenant under this Lease, Tenant shall not have any right or ability to audit Landlord's books and records with respect to such rental payments or charges; and (iv) if it is determined through such audit that the amount of the expenses actually paid by Tenant to Landlord for the period in question have not been overstated by an amount that is more than seven percent (7%) of the aggregate of such expenses, then Tenant shall immediately pay to Landlord, and reimburse Landlord for, the costs and expenses incurred by Landlord in connection with such audit, including without limitation, costs attributable to the time spent by Landlord's or Landlord's property management company's staff in connection with such audit, as such costs are reasonably determined by Landlord. Landlord and Tenant shall use their best efforts to cooperate in such negotiations and to promptly resolve any discrepancies between Landlord and Tenant in the accounting of such costs and expenses.

7. UTILITIES: Utility Expenses, Common Area Utility Costs and all other sums or charges set forth in this Section 7 are considered part of Additional Rent. Tenant shall pay the cost of all water, sewer use, sewer discharge fees and sewer connection fees, gas, heat, electricity, refuse pickup, janitorial service, telephone and other utilities billed or metered separately to the Premises and/or Tenant. Tenant shall also pay its share of any assessments or charges for utility or similar purposes included within any tax bill for the Lot on which the Premises are situated, including, without limitation, entitlement fees related to Tenant's particular use of the

Premises, allocation unit fees, and/or any similar fees or charges, and any penalties related thereto to the extent any such penalties result from Tenant's failure to so timely make such payments. For any such utility fees or use charges that are not billed or metered separately to Tenant, Tenant shall pay to Landlord, as Additional Rent, without prior notice or demand, on the Commencement Date and thereafter on the first (1st) day of each month throughout the balance of the Term of this Lease the amount which is attributable to Tenant's use of the utilities or similar services, as reasonably estimated and determined by Landlord based upon factors such as size of the Premises and intensity of use of such utilities by Tenant such that Tenant shall pay the portion of such charges reasonably consistent with Tenant's use of such utilities and similar services ("Utility Expenses"). In addition, Tenant shall pay to Landlord Tenant's Share, which is set forth on Page 1, as Additional Rent, without prior notice or demand, on the Commencement Date and thereafter on the first (1st) day of each month throughout the balance of the Term of this Lease, of any Common Area utility costs, fees, charges or expenses ("Common Area Utility Costs"). Tenant shall pay to Landlord one-twelfth (1/12th) of the estimated amount of Tenant's Share of the Common Area Utility Costs in the same manner and time periods as specified in Section 6.3 above and any reconciliation thereof shall also be in the same manner as specified in Sections 6.3 and 6.4 above. The amount of Tenant's Share of Common Area Utility Costs shall be reviewed from time to time by Landlord and shall be subject to modification by Landlord if there is a change in the rentable square footage of the Premises, the Buildings and/or the Park due to any casualty or condemnation of any portion of the Premises. Tenant acknowledges that the Premises may become subject to the rationing of utility services or restrictions on utility use as required by a public utility company, governmental agency or other similar entity having jurisdiction thereof. Notwithstanding any such rationing or restrictions on use of any such utility services, Tenant acknowledges and agrees that its tenancy and occupancy hereunder shall be subject to such rationing restrictions as may be imposed upon Landlord, Tenant, the Premises, the Buildings or the Park, and Tenant shall in no event be excused or relieved from any covenant or obligation to be kept or performed by Tenant by reason of any such rationing or restrictions. Tenant further agrees to timely and faithfully pay, prior to delinquency, any amount, tax, charge, surcharge, assessment or imposition levied, assessed or imposed upon the Premises, or Tenant's use and occupancy thereof. Notwithstanding anything to the contrary contained herein, if due to incidents, events or occurrences other than those arising from Tenant's or Tenant's Representatives' negligent or intentional acts or omissions essential utility services for the conduct of Tenant's operations in the Premises are discontinued or interrupted for a consecutive period of one hundred eighty (180) days or more, then such discontinuance or interruption of essential utility services shall be considered to be a casualty and the provisions of Section 27 shall apply thereto.

8. LATE CHARGES: Any and all sums or charges set forth in this Section 8 are considered part of Additional Rent. Tenant acknowledges that late payment (the second day after Landlord's delivery of written notice that any sum has not been paid when due or any time thereafter) by Tenant to Landlord of Base Rent, Tenant's Share of Operating Expenses, Tax Expenses, Common Area Utility Costs, and Utility Expenses or other sums due hereunder, will cause Landlord to incur costs not contemplated by this Lease, the exact amount of such costs being extremely difficult and impracticable to fix. Such costs include, without limitation, processing and accounting charges, and late charges that may be imposed on Landlord by the terms of any note secured by any encumbrance against the Premises, and late charges and penalties due to the late payment of real property taxes on the Premises. Therefore, if any installment of Rent or any other sum due from Tenant is not received by Landlord within two (2) days after Landlord's delivery of written notice that such sum is otherwise due, Tenant shall promptly pay to Landlord all of the following, as applicable: (a) an additional sum equal to seven percent (7%) of such delinquent amount as a late charge for every month or portion thereof that such sums remain unpaid, and (b) the amount of fifty dollars (\$50) relating to checks for which there are not sufficient funds; provided, however, the foregoing late charges shall only be required to be paid by Tenant if Tenant has been late in making such payments more than three (3) times during the Term of this Lease. If Tenant delivers to Landlord a check for which there are not sufficient funds, Landlord may, at its sole option, require Tenant to replace such check with a cashier's check for the amount of such check and all other charges payable hereunder. The parties agree that this late charge and the other charges referenced above represent a fair and reasonable estimate of the costs that Landlord will incur by reason of late payment by Tenant. Acceptance of any late charge or other charges shall not constitute a waiver by Landlord of Tenant's default with respect to the delinquent amount, nor prevent Landlord from exercising any of the other rights and remedies available to Landlord for any other breach of Tenant under this Lease. If a late charge or other charge becomes payable for any three (3) installments of Rent within any twelve (12) month period, then Landlord, at Landlord's sole option, can either require the Rent be paid quarterly in advance, or be paid monthly in advance by cashier's check or by electronic funds transfer.

9. USE OF PREMISES:

9.1 COMPLIANCE WITH LAWS, RECORDED MATTERS, AND RULES AND REGULATIONS:

The Premises are to be used solely for the uses stated on Page 1 and for no other uses or purposes without Landlord's prior written consent, which consent shall not be unreasonably withheld or delayed so long as the proposed use (i) does not involve the use of Hazardous Materials other than as expressly permitted under the provisions of Section 29 below, (ii) does not require any additional parking in excess of the parking spaces already licensed to Tenant pursuant to the provisions of Section 24 of this Lease, and (iii) is compatible and consistent with the other uses then being made in the Park and in other similar type of buildings in the vicinity of the Park, as reasonably determined by Landlord. The use of the Premises by Tenant and its employees, representatives, agents, invitees, licensees, subtenants, customers or contractors (collectively, "Tenant's Representatives") shall be subject to, and at all times in compliance with, (a) any and all applicable laws, ordinances, statutes, orders and regulations as same exist from time to time (collectively, the "Laws"), (b) any and all documents, matters or instruments,

including without limitation, any declarations of covenants, conditions and restrictions, and any supplements thereto, each of which has been or hereafter is recorded in any official or public records with respect to the Premises, the Buildings, the Lot and/or the Park, or any portion thereof (collectively, the "Recorded Matters"), provided, if any of the Recorded Matters which are subsequently recorded after the Lease Date materially affect Tenant's rights and obligations under this Lease (excluding any liens related to any mortgage, deed of trust or similar type of security interest, and any easements, liens and other recorded matters required or imposed in connection with the development and construction of the Buildings and the other improvements to be made as part of the Park), then Landlord shall obtain Tenant's prior written consent to same, which consent shall not be unreasonably withheld or delayed, and (c) any and all rules and regulations set forth in Exhibit C, attached to and made a part of this Lease, and any other reasonable rules and regulations promulgated by Landlord now or hereafter enacted relating to parking and the operation of the Premises, the Buildings and the Park, provided same are enforced on a non-discriminatory basis (collectively, the "Rules and Regulations"). Tenant agrees to, and does hereby, assume full and complete responsibility to ensure that the Premises are adequate to fully meet the needs and requirements of Tenant's intended operations of its business within the Premises, and Tenant's use of the Premises and that same are in compliance with all applicable Laws throughout the Term of this Lease. Additionally, Tenant shall be solely responsible for the payment of all costs, fees and expenses associated with any modifications to the Premises, Buildings, the Common Areas and/or the Park occasioned by the enactment of, or changes to, any Laws arising from Tenant's particular use of, or alterations to, the Premises regardless of when such Laws become effective.

9.2 PROHIBITION ON USE: Tenant shall not use the Premises or permit anything to be done in or about the Premises nor keep or bring anything therein which will in any way conflict with any of the requirements of the Board of Fire Underwriters or similar body now or hereafter constituted or in any way increase the existing rate of or affect any policy of fire or other insurance upon the Buildings or any of its contents, or cause a cancellation of any insurance policy. No auctions may be held or otherwise conducted in, on or about the Premises, the Buildings, the Lot or the Park without Landlord's written consent thereto, which consent may be given or withheld in Landlord's sole discretion. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of Landlord, other tenants or occupants of the Buildings, other buildings in the Park, or other persons or businesses in the area, or injure or annoy other tenants or use or allow the Premises to be used for any unlawful or objectionable purpose, as determined by Landlord, in its reasonable discretion, for the benefit, quiet enjoyment and use by Landlord and all other tenants or occupants of the Buildings or other buildings in the Park; nor shall Tenant cause, maintain or permit any private or public nuisance in, on or about the Premises, Buildings, Park and/or the Common Areas, including, but not limited to, any offensive odors, noises, fumes or vibrations. Tenant shall not damage or deface or otherwise commit or suffer to be committed any waste in, upon or about the Premises. Except as may be permitted under applicable Laws and as Landlord may otherwise approve in writing, Tenant shall not place or store, nor permit any other person or entity to place or store, any property, equipment, materials, supplies, personal property or any other items or goods outside of the Premises for any period of time except in outside enclosures that are fully fenced and screened in compliance with all Recorded Matters and Laws, and which enclosures are designed for such purpose, and which have been approved by Landlord for such use. Other than seeing-eye dogs for the blind, Tenant shall not permit any animals, including, but not limited to, any household pets, to be brought or kept in or about the Premises. Tenant shall place no loads upon the floors, walls, or ceilings in excess of the maximum designed load permitted by the applicable Uniform Building Code or which may damage the Buildings or outside areas; nor place any harmful liquids in the drainage systems; nor dump or store waste materials, refuse or other such materials, or allow such to remain outside the Building area, except for any non-hazardous or non-harmful materials which may be stored in refuse dumpsters or in any enclosed trash areas provided. Tenant shall honor the terms of all Recorded Matters relating to the Premises, the Buildings, the Lot and/or the Park. Tenant shall honor the Rules and Regulations. If Tenant fails to comply with such Laws, Recorded Matters, Rules and Regulations or the provisions of this Lease, Landlord shall have the right to collect from Tenant Landlord's costs and expenses, if any, to cure any of such failures of Tenant, if Landlord, at its sole option, elects to undertake such cure.

10. ALTERATIONS AND ADDITIONS; AND SURRENDER OF PREMISES:

10.1 ALTERATIONS AND ADDITIONS: Tenant shall be permitted to make, at its sole cost and expense, non-structural alterations and additions to the Premises without obtaining Landlord's prior written consent provided the cost of same does not exceed \$75,000 cumulatively in any twelve-month period (the "Permitted Improvements"). Tenant, however, shall first notify Landlord of such alterations or additions comprising the Permitted Improvements so that Landlord may post a Notice of Non-Responsibility on the Premises. Within ten (10) business days of Landlord's receipt of Tenant's written notice of any item comprising the Permitted Improvements, Landlord shall notify Tenant whether or not Landlord will require Tenant to remove such item(s) from the Premises upon the expiration or earlier termination of this Lease. Except for the Permitted Improvements, Tenant shall not install any signs, fixtures (excluding trade fixtures), improvements, nor make or permit any other alterations or additions to the Premises without the prior written consent of Landlord. If any such alteration or addition is expressly permitted by Landlord, including without limitation, the Permitted Improvements, Tenant shall deliver at least twenty (20) days prior notice to Landlord, from the date Tenant intends to commence construction, sufficient to enable Landlord to post a Notice of Non-Responsibility. At the time that Landlord notifies Tenant of its approval or disapproval of any such request, Landlord shall advise Tenant in writing of those fixtures (excluding trade fixtures), improvements, alterations and additions which Landlord will require Tenant to remove upon the expiration or earlier termination of the Lease. In all events, Tenant shall obtain all permits or other governmental approvals prior to commencing any of such work and deliver a copy of same to Landlord. All alterations and additions shall be installed by a licensed contractor

reasonably approved by Landlord (except with regard to any Permitted Improvements the licensed contractor employed by Tenant therefor shall not be subject to Landlord's prior approval), at Tenant's sole expense in compliance with all applicable Laws (including, but not limited to, the ADA as defined herein), Recorded Matters, and Rules and Regulations. Tenant shall keep the Premises and the property on which the Premises are situated free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Tenant. All alterations and additions performed by Tenant are subject to Tenant obtaining all necessary building permits and shall be performed in a first-class workmanlike manner by licensed and insured contractors. As a condition to Landlord's consent to the installation of any fixtures, additions or other improvements the cost of which exceeds \$100,000 and solely in the event that there has been a material change in the financial condition of Tenant such that Tenant's net worth has fallen below \$100,000,000.00, Landlord may require Tenant to post and obtain a completion and indemnity bond or a letter of credit in form reasonably acceptable to Landlord for up to one hundred ten percent (110%) of the cost of the work. With respect to the Tenant Improvements, except for any cafeteria and related items that are part of the Tenant Improvements for which Landlord will require Tenant, at its sole cost and expense, to demolish and/or remove from the Premises upon the expiration or earlier termination of this Lease, Landlord shall not require Tenant to demolish and/or remove any other items comprising the Tenant Improvements from the Premises upon the expiration or earlier termination of this Lease.

10.2 SURRENDER OF PREMISES: Upon the termination of this Lease, whether by forfeiture, lapse of time or otherwise, or upon the termination of Tenant's right to possession of the Premises, Tenant will at once surrender and deliver up the Premises, together with the fixtures (other than trade fixtures), furnishings, additions and improvements which Landlord has not notified Tenant, in writing, that Landlord will require Tenant to remove (including without limitation, any items comprising the Tenant Improvements), to Landlord in good condition and repair subject to Tenant's compliance with its obligations under Sections 9, 29 and 37 hereof, including, but not limited to, replacing all light bulbs and ballasts not in good working condition, except for reasonable wear and tear, casualty damage and repairs which are Landlord's obligations pursuant to the provisions of Sections 11.2 and 11.3 below. Reasonable wear and tear shall not include any damage or deterioration to the floors of the Premises arising from the use of forklifts in, on or about the Premises (including, without limitation, any marks or stains of any portion of the floors), and any damage or deterioration that would have been prevented by proper maintenance by Tenant or Tenant otherwise performing all of its obligations under this Lease. Upon such termination of this Lease, Tenant shall remove any cafeteria and related items that are part of the Tenant Improvements, all tenant signage, trade fixtures, furniture, furnishings, equipment, personal property, additions, and such other improvements Landlord requests, in writing, at the time of Landlord's delivery of its consent to such installation, that Tenant remove some or all of such additions or improvements installed by, or on behalf of Tenant or situated in or about the Premises; provided, however, such requirement is reasonably based upon the nature and type of additions, improvements or alterations being substantially different than that improved or altered thereby. Tenant shall repair any damage caused by the installation or removal of any cafeteria and related items that are part of the Tenant Improvements, and such signs, trade fixtures, furniture, furnishings, fixtures (other than trade fixtures), equipment, personal property, additions and improvements which are to be removed from the Premises by Tenant hereunder. Tenant shall ensure that the removal of such items and the repair of the Premises will be completed prior to such termination of this Lease.

11. REPAIRS AND MAINTENANCE:

11.1 TENANT'S REPAIRS AND MAINTENANCE OBLIGATIONS: Except for those portions of the Buildings to be maintained by Landlord as provided in Sections 11.2 and 11.3 below, Tenant shall, at Tenant's sole cost and expense, keep and maintain the interior non-structural portions of the Premises and the adjacent dock and staging areas (including, without limitation, any portion of the Common Areas used by Tenant or Tenant's Representatives) in good, clean and safe condition and repair to the reasonable satisfaction of Landlord, reasonable wear and tear and casualty excepted, including, but not limited to, repairing any damage caused by Tenant or Tenant's Representatives and replacing any property so damaged by Tenant or Tenant's Representatives. Without limiting the generality of the foregoing, Tenant shall be solely responsible for maintaining, repairing and replacing (a) all mechanical systems, heating, ventilation and air conditioning systems serving the Premises, (b) all plumbing, electrical wiring and equipment serving the Premises, (c) all interior lighting (including, without limitation, light bulbs and/or ballasts) and exterior lighting serving the Premises or immediately adjacent to the Premises, (d) all interior glass, windows, window frames, window casements, skylights, interior and exterior doors, door frames and door closers, (e) all roll-up doors, ramps and dock equipment, including without limitation, dock bumpers, dock plates, dock seals, dock levelers and dock lights, (f) all tenant signage, (g) lifts for disabled persons serving the Premises, (h) sprinkler systems, fire protection systems and security systems, (i) all partitions, fixtures, equipment, interior painting, and interior walls and floors of the Premises and every part thereof (including, without limitation, any demising walls contiguous to any portion of the Premises), and (j) all interior lobbies and any mezzanines.

11.2 REIMBURSABLE REPAIRS AND MAINTENANCE OBLIGATIONS: Subject to the provisions of Sections 6 and 9 of this Lease and except for (i) the obligations of Tenant set forth in Section 11.1 above, (ii) the repairs rendered necessary by the intentional or negligent acts or omissions of Tenant or Tenant's Representatives, and (iii) the obligations of Landlord set forth in Section 11.3 below, Landlord agrees, at Landlord's expense, subject to reimbursement pursuant to Section 6 above, to keep in good repair the Common Areas, plumbing and mechanical systems exterior to the Premises, the roof, roof membranes, exterior walls of the Buildings, signage (exclusive of tenant signage), and exterior electrical wiring and equipment, exterior lighting, exterior glass, exterior doors/entrances and door closers, exterior window casements, exterior painting of the Buildings

(exclusive of the Premises), and underground utility and sewer pipes outside the exterior walls of the Buildings. For purposes of this Section 11.2, the term "exterior" shall mean exterior to, and not serving the Premises. Unless otherwise notified by Landlord, in writing, that Landlord has elected to procure and maintain the following described contract(s), Tenant shall procure and maintain (a) the heating, ventilation and air conditioning systems preventative maintenance and repair contract(s); such contract(s) to be on a quarterly basis, as reasonably determined by Landlord, and (b) the fire and sprinkler protection services and preventative maintenance and repair contract(s) (including, without limitation, monitoring services); such contract(s) to be on a quarterly basis. Landlord reserves the right, but without the obligation to do so, to procure and maintain, on similar terms with the foregoing requirements, (i) the heating, ventilation and air conditioning systems preventative maintenance and repair contract(s), and/or (ii) the fire and sprinkler protection services and preventative maintenance and repair contract(s) (including, without limitation, monitoring services). If Landlord so elects to procure and maintain any such contract(s), Tenant will reimburse Landlord for the cost thereof in accordance with the provisions of Section 6 above. If Tenant procures and maintains any of such contract(s), Tenant will promptly deliver to Landlord a true and complete copy of each such contract and any and all renewals or extensions thereof, and each service report or other summary received by Tenant pursuant to or in connection with such contract(s).

11.3 LANDLORD'S REPAIRS AND MAINTENANCE OBLIGATIONS: Except for repairs rendered necessary by the intentional or negligent acts or omissions of Tenant or Tenant's Representatives, Landlord agrees, at Landlord's sole cost and expense, to (a) keep in good repair the structural portions of the floors, foundations and exterior perimeter walls of the Buildings (exclusive of glass and exterior doors), and (b) replace and repair the structural portions of the roof of the Buildings (excluding the roof membrane) as, and when, Landlord determines such replacement to be necessary in Landlord's reasonable discretion, all of the foregoing to be performed in such a manner as is substantially consistent with maintenance and repair of comparable buildings of similar type and nature of construction in the San Jose area.

11.4 TENANT'S FAILURE TO PERFORM REPAIRS AND MAINTENANCE OBLIGATIONS:

Except for normal maintenance and repair of the items described above, Tenant shall have no right of access to or right to install any device on the roof of the Buildings nor make any penetrations of the roof of the Buildings without the express prior written consent of Landlord. If Tenant refuses or neglects to repair and maintain the Premises and the adjacent areas properly as required herein and to the reasonable satisfaction of Landlord, Landlord may, but without obligation to do so, at any time make such repairs and/or maintenance without Landlord having any liability to Tenant for any loss or damage that may accrue to Tenant's merchandise, fixtures or other property, or to Tenant's business by reason thereof, except to the extent any damage is caused by the willful misconduct or negligence of Landlord or its authorized agents and representatives. In the event Landlord makes such repairs and/or maintenance, upon completion thereof Tenant shall pay to Landlord, as additional rent, the Landlord's costs for making such repairs and/or maintenance, plus ten percent (10%) for overhead, upon presentation of a bill therefor. The obligations of Tenant hereunder shall survive the expiration of the Term of this Lease or the earlier termination thereof. Subject to the provisions of Section 41 hereof, Tenant hereby waives any right to repair at the expense of Landlord under any applicable Laws now or hereafter in effect respecting the Premises.

12. INSURANCE:

12.1 TYPES OF INSURANCE: Tenant shall maintain in full force and effect at all times during the Term of this Lease, at Tenant's sole cost and expense, for the protection of Tenant and Landlord, as their interests may appear, policies of insurance issued by a carrier or carriers with an A.M. Best's rating (or similar publication) of A-:VIII or better which afford the following coverages: (i) worker's compensation: statutory limits; (ii) employer's liability, as required by law, with a minimum limit of \$100,000 per employee and \$500,000 per occurrence; (iii) commercial general liability insurance (occurrence form) providing coverage against claims for bodily injury and property damage occurring in, on or about the Premises arising out of Tenant's and Tenant's Representatives' use and/or occupancy of the Premises. Such insurance shall include coverage for blanket contractual liability, fire damage, premises, personal injury, completed operations, and products liability. Such insurance shall have a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence with at least a Three Million Dollar (\$3,000,000) aggregate limit. If the aggregate limit is exhausted, then so long as Tenant satisfies the requirements of Section 12.5 below Tenant shall be deemed to have self-insured all of such risks. If the aggregate limit is exhausted but Tenant does not satisfy the requirements of Section 12.5 below, Tenant shall provide for restoration of the aggregate limit, as reasonably determined by Landlord; (iv) comprehensive automobile liability insurance: a combined single limit of not less than \$2,000,000 per occurrence and insuring Tenant against liability for claims arising out of the ownership, maintenance, or use of any owned, hired or non-owned automobiles; (v) "all risk" or "special purpose" property insurance, including without limitation, sprinkler leakage, boiler and machinery comprehensive form, if applicable, covering damage to or loss of any personal property, trade fixtures, inventory, fixtures and equipment located in, on or about the Premises, and in addition, coverage for flood, and business interruption of Tenant, together with, if the property of Tenant's invitees is to be kept in the Premises, warehouse's legal liability or bailee customers insurance for the full replacement cost of the property belonging to invitees and located in the Premises. Such insurance shall be written on a replacement cost basis (without deduction for depreciation) in an amount equal to one hundred percent (100%) of the full replacement value of the aggregate of the items referred to in this subparagraph (v); and (vi) such other insurance as Landlord deems reasonably necessary and prudent or as may otherwise be required by any of Landlord's lenders.

12.2 INSURANCE POLICIES: Insurance required to be maintained by Tenant shall be written by companies (i) licensed to do business in the State of California, (ii) domiciled in the United States of America, and (iii) having a "General Policyholders Rating" of at least A-VIII as set forth in the most current issue of "A.M. Best's Rating Guides" or similar publication. Any deductible amounts under any of the insurance policies actually procured by Tenant and as required hereunder is not in substitution of the limits of insurance coverage which must be maintained by Tenant, rather such deductibles are Tenant's self-insured retention for which Tenant shall be wholly responsible. Tenant shall deliver to Landlord certificates of insurance together with a true and complete copy of any waiver of subrogation endorsement required herein for the insurance required to be maintained by Tenant hereunder at the time of execution of this Lease by Tenant. If at any time Tenant is in default of its obligations under this Lease beyond any applicable cure periods, Tenant will deliver to Landlord a copy of any other endorsements to the insurance policies obtained by Tenant upon Landlord's request therefor. Tenant shall, at least five (5) days prior to expiration of each policy, furnish Landlord with certificates of renewal or "binders" thereof. Each certificate shall expressly provide that such policies shall not be cancelable or otherwise subject to material reduction of coverage except after thirty (30) days prior written notice to the parties named as additional insureds as required in this Lease (except for cancellation for nonpayment of premium, in which event cancellation shall not take effect until at least ten (10) days' notice has been given to Landlord), as such certificates are reasonably acceptable to the insurers issuing such policies and as is customarily provided to landlords in the general vicinity of the Premises. Tenant shall have the right to provide insurance coverage which it is obligated to carry pursuant to the terms of this Lease under a blanket insurance policy.

12.3 ADDITIONAL INSURED AND COVERAGE: Landlord, any property management company and/or agent of Landlord for the Premises, the Buildings, the Lot or the Park, and any lender(s) of Landlord having a lien against the Premises, the Buildings, the Lot or the Park shall be named as additional insureds under all of the policies required in Section 12.1(iii) above, as each of such parties' interests may appear. Additionally, such policies shall provide for severability of interest. All insurance to be maintained by Tenant shall, except for workers' compensation and employer's liability insurance, be primary, without right of contribution from insurance maintained by Landlord. The limits of insurance maintained by Tenant shall not limit Tenant's liability under this Lease. It is the parties' intention that the insurance to be procured and maintained by Tenant as required herein shall provide coverage for damage or injury arising from or related to Tenant's operations of its business and/or Tenant's or Tenant's Representatives' use of the Premises and/or any of the areas within the Park, whether such events occur within the Premises (as described in Exhibit A hereto) or in any other areas of the Park. It is not contemplated or anticipated by the parties that the aforementioned risks of loss be borne by Landlord's insurance carriers, rather it is contemplated and anticipated by Landlord and Tenant that such risks of loss be borne by Tenant's insurance carriers pursuant to the insurance policies procured and maintained by Tenant as required herein, except to the extent of Landlord's or its authorized representatives' negligence or willful misconduct.

12.4 FAILURE OF TENANT TO PURCHASE AND MAINTAIN INSURANCE: Subject to Tenant's ability to self-insure such risks in accordance with the provisions of Section 12.5 below, in the event Tenant does not purchase the insurance required in this Lease or keep the same in full force and effect throughout the Term of this Lease (including any renewals or extensions), Landlord may, but without obligation to do so, purchase the necessary insurance and pay the premiums therefor. If Landlord so elects to purchase such insurance, Tenant shall promptly pay to Landlord as Additional Rent, the amount so paid by Landlord, upon Landlord's demand therefor. In addition, Landlord may recover from Tenant and Tenant agrees to pay, as Additional Rent, any and all damages which Landlord may sustain by reason of Tenant's failure to so obtain and maintain such insurance. If Tenant fails to maintain any insurance required in this Lease or otherwise fails to comply with the provisions of Section 12.5 below regarding Tenant's ability to self-insure such risks, Tenant shall be liable for all losses, damages and costs resulting from such failure.

12.5 TENANT'S RIGHT TO SELF-INSURE: Notwithstanding anything to the contrary contained herein, only with respect to the Tenant named herein as of the Lease Date and provided that said Tenant has and maintains a net worth in excess of One Hundred Million Dollars (\$100,000,000.00), such originally named Tenant may self-insure the risks contemplated in this Section 12 to the extent that such self-insurance is permitted by all applicable Laws and provided further that Tenant shall be fully and completely responsible and liable, at its sole cost and expense, (1) to fully repair, restore, and replace any and all items described above which may be damaged due to such risks contemplated herein, (2) for all injuries to persons or property for which such risks would otherwise have been insured against under any of the policies described above, (3) for any losses experienced by Tenant or in Tenant's business which would have otherwise been covered by business interruption insurance, and (4) for any and all claims, damages, losses and other liabilities incurred by, or made against, Tenant, Landlord, Landlord's property management company and/or lenders arising from Tenant's election to self-insure the risks contemplated in this Section 12.5, including without limitation, any and all costs of defense, litigation or other similar proceeding. If the Tenant named herein as of the Lease Date does so elect to self-insure such risks, then in lieu of delivering to Landlord a certificate of insurance, Tenant shall deliver to Landlord (annually) a letter certified by an authorized officer of its company that such risks are being self-insured and that Tenant has complied with the financial criteria set forth herein, and such letter shall also contain such other information as Landlord's lender(s) may reasonably require (the "Self-Insurance Certificate").

13. WAIVER OF SUBROGATION: Landlord and Tenant hereby mutually waive their respective rights of recovery against each other for any loss of, or damage to, either parties' property to the extent that such loss or damage is insured by an insurance policy required to be in effect at the time of such loss or damage. Each party shall obtain any special endorsements, if required by its insurer whereby the insurer waives its rights of subrogation

against the other party. This provision is intended to waive fully, and for the benefit of the parties hereto, any rights and/or claims which might give rise to a right of subrogation in favor of any insurance carrier. The coverage obtained by Tenant pursuant to Section 12 of this Lease shall include, without limitation, a waiver of subrogation endorsement attached to the certificate of insurance. The provisions of this Section 13 shall not apply in those instances in which such waiver of subrogation would invalidate such insurance coverage or would cause either party's insurance coverage to be voided or otherwise uncollectible.

14. LIMITATION OF LIABILITY AND INDEMNITY: Except to the extent of damage resulting from the negligence or willful misconduct of Landlord or its authorized representatives, Tenant agrees to protect, defend (with counsel acceptable to Landlord) and hold Landlord and Landlord's lender(s), members, partners, employees, representatives, legal representatives, successors and assigns (collectively, the "Indemnitees") harmless and indemnify the Indemnitees from and against all liabilities, damages, claims, losses, judgments, charges and expenses (including reasonable attorneys' fees, costs of court and expenses necessary in the prosecution or defense of any litigation including the enforcement of this provision) arising from or in any way related to, directly or indirectly, (i) Tenant's or Tenant's Representatives' use of the Premises, Buildings and/or the Park, (ii) the failure by Tenant to perform its obligations under this Lease or any breach on the part of Tenant of any of the provisions of this Lease, or (iii) the conduct of Tenant's business, or from any activity, work or thing done, permitted or suffered by Tenant in or about the Premises, including, but not limited to, any liability for injury to person or property of Tenant, Tenant's Representatives, or third party persons. Tenant agrees that the obligations of Tenant herein shall survive the expiration or earlier termination of this Lease.

Except to the extent of damage resulting from the negligence or willful misconduct of Landlord or its authorized representatives, Landlord shall not be liable to Tenant for any loss or damage to Tenant or Tenant's property, for any injury to or loss of Tenant's business or for any damage or injury to any person from any cause whatsoever, including, but not limited to, any acts, errors or omissions by or on behalf of any other tenants or occupants of the Buildings and/or the Park. Tenant shall not, in any event or circumstance, be permitted to offset or otherwise credit against any payments of Rent required herein for matters for which Landlord may be liable hereunder. Landlord and its authorized representatives shall not be liable for any interference with light or air, or, subject to the provisions of Section 5 above, for any latent defect in the Premises or the Buildings. To the fullest extent permitted by law and except to the extent of damage resulting from the negligence or willful misconduct of Landlord or its authorized representatives, Tenant agrees that neither Landlord nor any of Landlord's lender(s), members, partners, employees, representatives, legal representatives, successors and assigns shall at any time or to any extent whatsoever be liable, responsible or in any way accountable for any loss, liability, injury, death or damage to persons or property which at any time may be suffered or sustained by Tenant or by any person(s) whomsoever who may at any time be using, occupying or visiting the Premises, the Buildings or the Park.

Except to the extent of damage resulting from the negligence or willful misconduct of Tenant or any of Tenant's Representatives, Landlord agrees to protect, defend (with counsel acceptable to Tenant) and hold Tenant and Tenant's employees and representatives (collectively, the "Tenant Indemnitees") harmless and indemnify the Tenant Indemnitees from and against all liabilities, damages, claims, losses, judgments, charges and expenses (including reasonable attorneys' fees, costs of court and expenses necessary in the prosecution or defense of any litigation including the enforcement of this provision) resulting from Landlord's or its authorized agents' negligence or willful misconduct. Landlord agrees that the obligations of Landlord herein shall survive the expiration or earlier termination of this Lease.

15. ASSIGNMENT AND SUBLEASING:

15.1 PROHIBITION: Except as expressly set forth herein with respect to a Related Entity, Tenant shall not assign, mortgage, hypothecate, encumber, grant any license or concession, pledge or otherwise transfer this Lease (collectively, "assignment"), in whole or in part, whether voluntarily or involuntarily or by operation of law, nor sublet or permit occupancy by any person other than Tenant of all or any portion of the Premises without first obtaining the prior written consent of Landlord, which consent shall not be unreasonably withheld. Tenant hereby agrees that Landlord may withhold its consent to any proposed sublease or assignment if the proposed sublessee or assignee or its business is subject to compliance with additional requirements of the ADA (defined below) beyond those requirements which are applicable to Tenant, unless the proposed sublessee or assignee shall (a) first deliver plans and specifications for complying with such additional requirements and obtain Landlord's written consent thereto, which consent shall not be unreasonably withheld, and (b) comply with all Landlord's conditions for or contained in such consent, including without limitation, requirements for security to assure the lien-free completion of such improvements. If Tenant seeks to sublet or assign all or any portion of the Premises, Tenant shall deliver to Landlord at least thirty (30) days prior to the proposed commencement of the sublease or assignment (the "Proposed Effective Date") the following: (i) the name of the proposed assignee or sublessee; (ii) such information as to such assignee's or sublessee's financial responsibility and standing as Landlord may reasonably require; and (iii) the aforementioned plans and specifications, if any. Within ten (10) days after Landlord's receipt of a written request from Tenant that Tenant seeks to sublet or assign all or any portion of the Premises, Landlord shall deliver to Tenant a copy of Landlord's standard form of sublease or assignment agreement (as applicable), which instrument shall be utilized for each proposed sublease or assignment (as applicable), and such instrument shall include a provision whereby the assignee or sublessee assumes all of Tenant's obligations hereunder, but with respect to a sublease only, to the extent applicable to the subleased portion of the Premises, and agrees to be bound by the terms hereof. As Additional Rent hereunder, Tenant shall pay to Landlord a fee in the amount of five hundred dollars (\$500) plus Tenant

shall reimburse Landlord for actual legal and other expenses incurred by Landlord in connection with any actual or proposed assignment or subletting. Notwithstanding anything to the contrary contained herein, if (I) the Term of the Second Lease has expired or the Second Lease has been earlier terminated for any reason whatsoever, in whole or in part, and (II) Tenant proposes to sublease or assign this Lease to a party other than a Related Entity, then for the time period during which there is any vacancy in Building C and/or Building D (as referred to in the Second Lease) Landlord shall have the right, to be exercised by giving written notice to Tenant, to either (1) recapture the space described in the proposed sublease or assignment, or (2) consent to such proposed sublease or assignment, in which event Tenant shall pay Landlord monthly, as Additional Rent, at the same time as the monthly installments of Rent are payable hereunder, fifty percent (50%) of the excess of each such payment of rent or other consideration in excess of the Rent called for hereunder, after deduction of the actual brokerage commission (if any) paid by Tenant in connection with such proposed sublease or assignment, where the rent or other consideration provided for in the proposed sublease or assignment either initially or over the term of the sublease or assignment exceeds the Rent or pro rata portion of the Rent, as the case may be, for such space reserved in the Lease. If such recapture notice is given, it shall serve to terminate this Lease with respect to the proposed sublease or assignment space, or, if the proposed sublease or assignment space covers all the Premises, it shall serve to terminate the entire term of this Lease in either case, as of the Proposed Effective Date, with respect to such space. However, no termination of this Lease with respect to part or all of the Premises shall become effective without the prior written consent, where necessary, of the holder of each deed of trust encumbering the Premises or any part thereof. If this Lease is terminated pursuant to the foregoing with respect to less than the entire Premises, the Rent shall be adjusted on the basis of the proportion of square feet retained by Tenant to the square feet originally demised and this Lease as so amended shall continue thereafter in full force and effect. Each permitted assignee or sublessee, including without limitation, a Related Entity, shall assume and be deemed to assume this Lease and shall be and remain liable jointly and severally with Tenant for payment of Rent and for the due performance of, and compliance with all the terms, covenants, conditions and agreements herein contained on Tenant's part to be performed or complied with, for the term of this Lease. No assignment or subletting shall affect the continuing primary liability of Tenant (which, following assignment, shall be joint and several with the assignee), and Tenant shall not be released from performing any of the terms, covenants and conditions of this Lease. Tenant hereby acknowledges and agrees that it understands that Landlord's accounting department may process and accept Rent payments without verifying that such payments are being made by Tenant, a permitted sublessee or a permitted assignee in accordance with the provisions of this Lease. Although such payments may be processed and accepted by such accounting department personnel, any and all actions or omissions by the personnel of Landlord's accounting department shall not be considered as acceptance by Landlord of any proposed assignee or sublessee nor shall such actions or omissions be deemed to be a substitute for the requirement that Tenant obtain Landlord's prior written consent to any such subletting or assignment, and any such actions or omissions by the personnel of Landlord's accounting department shall not be considered as a voluntary relinquishment by Landlord of any of its rights hereunder nor shall any voluntary relinquishment of such rights be inferred therefrom. For purposes hereof, and except with respect to a Related Entity, in the event Tenant is a corporation, partnership, joint venture, trust or other entity other than a natural person, any change in the direct or indirect ownership of Tenant (whether pursuant to one or more transfers other than publicly traded stock which does not confer upon any party or parties control over Tenant) which results in a change of more than fifty percent (50%) in the direct or indirect ownership of Tenant shall be deemed to be an assignment within the meaning of this Section 15 and shall be subject to all the provisions hereof. Except for a permissible assignment to a Related Entity, any and all options, first rights of refusal, tenant improvement allowances and other similar rights granted to Tenant in this Lease, if any, shall not be assignable by Tenant unless expressly authorized in writing by Landlord, at Landlord's reasonable discretion. Notwithstanding anything to the contrary contained herein, so long as Tenant delivers to Landlord (x) at least fifteen (15) business days prior written notice of its intention to assign or sublease the Premises to any Related Entity, which notice shall set forth the name of the Related Entity, (y) a copy of the proposed agreement pursuant to which such assignment or sublease shall be effectuated, and (z) such other information concerning the Related Entity as Landlord may reasonably require, including without limitation, information regarding any change in the proposed use of any portion of the Premises and any financial information with respect to such Related Entity, and so long as Landlord approves, in writing, of any change in the proposed use of the subject portion of the Premises, then Tenant may assign this Lease or sublease any portion of the Premises (X) to any Related Entity, or (Y) in connection with any merger, consolidation or sale of substantially all of the assets of Tenant, without having to obtain the prior written consent of Landlord thereto. For purposes of this Lease the term "Related Entity" shall mean and refer to any corporation or entity which controls, is controlled by or is under common control with Tenant, as all of such terms are customarily used in the industry, and with an equal or greater net worth as Tenant has as of the proposed transfer date.

15.2 EXCESS SUBLEASE RENTAL OR ASSIGNMENT CONSIDERATION: Notwithstanding anything to the contrary contained herein, the provisions of this Section 15.2 are subject to the provisions of Section 15.1 above and in the event of any conflict between such provisions, the terms and provisions of Section 15.1 hereof shall control and prevail. During the initial term of this Lease only, in the event of any sublease or assignment of all or any portion of the Premises to a party other than a Related Entity, which sublease or assignment only relates to the initial term of this Lease and is expressly

approved by Landlord, and where the rent or other consideration provided for in the sublease or assignment either initially or over the term of the sublease or assignment exceeds the Rent or pro rata portion of the Rent, as the case may be, for such space reserved in the Lease, Tenant shall pay the Landlord monthly, as Additional Rent, at the same time as the monthly installments of Rent are payable hereunder, fifty percent (50%) of the excess of each such payment of rent or other consideration in excess of the Rent called for hereunder, after deduction of the actual brokerage commission (if any) paid by Tenant in connection with such proposed sublease or assignment. During any renewal or option terms of this Lease, in the event of any sublease or assignment of all or any portion of the Premises to a party other than a Related Entity, which sublease or assignment relates to such renewal or option term of this Lease and is expressly approved by Landlord, and where the rent or other consideration provided for in the sublease or assignment either initially or over the term of the sublease or assignment exceeds the Rent or pro rata portion of the Rent, as the case may be, for such space reserved in the Lease, Tenant shall pay the Landlord monthly, as Additional Rent, at the same time as the monthly installments of Rent are payable hereunder, fifty percent (50%) of the excess of each such payment of rent or other consideration in excess of the Rent called for hereunder, after deduction of the actual brokerage commission (if any) paid by Tenant in connection with such proposed sublease or assignment.

15.3 WAIVER: Notwithstanding any assignment or sublease, or any indulgences, waivers or extensions of time granted by Landlord to any assignee or sublessee, or failure by Landlord to take action against any assignee or sublessee, Tenant agrees that Landlord may, at its option, proceed against Tenant without having taken action against or joined such assignee or sublessee, except that Tenant shall have the benefit of any indulgences, waivers and extensions of time granted to any such assignee or sublessee.

16. AD VALOREM TAXES: Prior to delinquency, Tenant shall pay all taxes and assessments levied upon trade fixtures, alterations, additions, improvements, inventories and personal property located and/or installed on or in the Premises by, or on behalf of, Tenant; and if requested by Landlord, Tenant shall promptly deliver to Landlord copies of receipts for payment of all such taxes and assessments. To the extent any such taxes are not separately assessed or billed to Tenant, Tenant shall pay the amount thereof as invoiced by Landlord.

17. SUBORDINATION: Landlord hereby represents to Tenant that as of the Lease Date there does not exist a lien of a mortgage or deed of trust on all or any portion of the Premises. Without the necessity of any additional document being executed by Tenant for the purpose of effecting a subordination, and at the election of Landlord or any bona fide mortgagee or deed of trust beneficiary with a lien on all or any portion of the Premises or any ground lessor with respect to the land of which the Premises are a part, the rights of Tenant under this Lease and this Lease shall be subject and subordinate at all times to: (i) all ground leases or underlying leases which may now exist or hereafter be executed affecting the Buildings or the land upon which the Buildings are situated or both provided such ground lease includes a provision that Tenant's use, occupancy or quiet enjoyment of the Premises will not be disturbed so long as Tenant is not in default of the terms and provisions of this Lease, and (ii) the lien of any mortgage or deed of trust which may now exist or hereafter be executed in any amount for which the Buildings, the Lot, ground leases or underlying leases, or Landlord's interest or estate in any of said items is specified as security.

Notwithstanding the foregoing, Landlord or any such ground lessor, mortgagee, or any beneficiary shall have the right to subordinate or cause to be subordinated any such ground leases or underlying leases or any such liens to this Lease. If any ground lease or underlying lease terminates for any reason or any mortgage or deed of trust is foreclosed or a conveyance in lieu of foreclosure is made for any reason, Tenant shall, notwithstanding any subordination and upon the request of such successor to Landlord, attorn to and become the Tenant of the successor in interest to Landlord, provided such successor in interest will not disturb Tenant's use, occupancy or quiet enjoyment of the Premises so long as Tenant is not in default of the terms and provisions of this Lease. The successor in interest to Landlord following foreclosure, sale or deed in lieu thereof shall not be (a) liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) subject to any offsets or defenses which Tenant might have against any prior lessor; or (c) bound by prepayment of more than one

(1) month's Rent. Tenant covenants and agrees to execute (and acknowledge if required by Landlord, any lender or ground lessor) and deliver, within ten (10) business days of a demand or request by Landlord and in the form requested by Landlord, ground lessor, mortgagee or beneficiary, any additional documents evidencing the priority or subordination of this Lease with respect to any such ground leases or underlying leases or the lien of any such mortgage or deed of trust. Tenant's failure to timely execute and deliver such additional documents shall, at Landlord's option, constitute a material default hereunder. Tenant's agreement to subordinate this Lease to any future ground or underlying lease or any future deed of trust or mortgage pursuant to the foregoing provisions of the Section 17 is conditioned upon Landlord delivering to Tenant from the lessor under such future ground or underlying lease or the holder of any such mortgage or deed of trust, a non-disturbance agreement agreeing, among other things, that Tenant's right to possession of the Premises pursuant to the terms and conditions of this Lease shall not be disturbed provided Tenant is not in default under this Lease beyond the applicable notice and cure periods hereunder.

18. RIGHT OF ENTRY: Tenant grants Landlord or its agents the right to enter the Premises at all reasonable times, upon 24 hours advance notice to Tenant, for purposes of inspection, exhibition, posting of notices, repair or alteration. At Landlord's option, Landlord shall at all times have and retain a key with which to unlock all the doors not conspicuously designated as restricted access areas for security reasons in, upon and about the Premises, excluding Tenant's vaults and safes. It is further agreed that Landlord shall have the right to use any and all means Landlord deems necessary to enter the Premises in an emergency. Landlord shall also have the right to place "for sale" signs in the Common Areas at any time during the Term of this Lease. Landlord shall also have the right to place "for rent" or "for lease" signs (which signage shall include a phrase to the effect that Tenant is moving to larger quarters) on the outside of the Premises and/or in the Common Areas at any time during the last nine (9) months of the Term or the earlier termination thereof. Tenant hereby waives any claim from damages or for any injury or inconvenience to or interference with Tenant's business, or any other loss occasioned thereby except for any claim for any of the foregoing arising out of the negligence or willful misconduct of Landlord or its authorized representatives.

19. ESTOPPEL CERTIFICATE: Tenant shall execute (and acknowledge if required by any lender or ground lessor) and deliver to Landlord, within not less than ten (10) business days after Landlord provides such to Tenant, a statement in writing certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification), the date to which the Rent and other charges are paid in advance, if any, acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder or specifying such defaults as are claimed, and such other matters as Landlord may reasonably require. Any such statement may be conclusively relied upon by Landlord and any prospective purchaser or encumbrancer of the Premises. Tenant's failure to deliver such statement within such time shall be conclusive upon the Tenant that (a) this Lease is in full force and effect, without modification except as may be represented by Landlord; (b) there are no uncured defaults in Landlord's performance; and (c) not more than one month's Rent has been paid in advance, except in those instances when Tenant pays Rent quarterly in advance pursuant to Section 8 hereof, then not more than three month's Rent has been paid in advance. Failure by Tenant to so deliver such certified estoppel certificate shall be a material default of the provisions of this Lease. Tenant shall be liable to Landlord, and shall indemnify Landlord from and against any loss, cost, damage or expense, incidental, consequential, or otherwise, resulting from any failure of Tenant to execute or deliver to Landlord any such certified estoppel certificate.

20. TENANT'S DEFAULT: The occurrence of any one or more of the following events shall, at Landlord's option, constitute a material default by Tenant of this Lease:

20.1 The abandonment of the Premises by Tenant or the vacation of the Premises by Tenant which would cause any insurance policy to be invalidated or otherwise lapse. Tenant agrees to notice and service of notice as provided for in this Lease and waives any right to any other or further notice or service of notice which Tenant may have under any statute or law now or hereafter in effect;

20.2 The failure by Tenant to make any payment of Rent, Additional Rent or any other payment required hereunder within three (3) days of Landlord's delivery of written notice that said payment is due. Tenant agrees to notice and service of notice as provided for in this Lease and waives any right to any other or further notice or service of notice which Tenant may have under any statute or law now or hereafter in effect;

20.3 The failure by Tenant to observe, perform or comply with any of the conditions, covenants or provisions of this Lease (except failure to make any payment of Rent and/or Additional Rent) and such failure is not cured within (i) thirty (30) days of the date on which Landlord delivers written notice of such failure to Tenant, complying with the notice requirements of Section 31.10 hereof, for all failures other than with respect to Hazardous Materials, and (ii) ten (10) days of the date on which Landlord delivers written notice of such failure to Tenant for all failures in any way related to Hazardous Materials. However, Tenant shall not be in default of its obligations hereunder if such failure cannot reasonably be cured within such thirty (30) or ten (10) day period, as applicable, and Tenant promptly commences, and thereafter diligently proceeds with same to completion, all actions necessary to cure such failure as soon as is reasonably possible, but in no event shall the completion of such cure be later than sixty (60) days after the date on which Landlord delivers to Tenant written notice of such failure, unless Landlord, acting reasonably and in good faith, otherwise expressly agrees in writing to a longer period of time based upon the circumstances relating to such failure as well as the nature of the failure and the nature of the actions necessary to cure such failure;

20.4 The making of a general assignment by Tenant for the benefit of creditors, the filing of a voluntary petition by Tenant or the filing of an involuntary petition by any of Tenant's creditors seeking the rehabilitation, liquidation, or reorganization of Tenant under any law relating to bankruptcy, insolvency or other relief of debtors and, in the case of an involuntary action, the failure to remove or discharge the same within sixty (60) days of such filing, the appointment of a receiver or other custodian to take possession of substantially all of Tenant's assets or this leasehold, Tenant's insolvency or inability to pay Tenant's debts or failure generally to pay Tenant's debts when due, any court entering a decree or order directing the winding up or liquidation of Tenant or of substantially all of Tenant's assets, Tenant taking any action toward the dissolution or winding up of Tenant's affairs, the cessation or suspension of Tenant's use of the Premises, or the attachment, execution or other judicial seizure of substantially all of Tenant's assets or this leasehold;

20.5 Tenant's use or storage of Hazardous Materials in, on or about the Premises, the Buildings, the Lot and/or the Park other than as expressly permitted by the provisions of Section 29 below;

20.6 The intentional making of any material misrepresentation or omission by Tenant in any materials delivered by or on behalf of Tenant to Landlord pursuant to this Lease; or

20.7 A material default by Tenant of any of the terms, provisions or conditions of that certain Lease Agreement, of even date herewith, by and between Landlord and Tenant for the leasing by Tenant of those two (2) certain buildings situated within the Park and referred to as Buildings C and D (the "Second Lease").

21. REMEDIES FOR TENANT'S DEFAULT:

21.1 LANDLORD'S RIGHTS: In the event of Tenant's material default or breach of the Lease, Landlord may, after expiration of any applicable cure period, terminate Tenant's right to possession of the Premises by any lawful means in which case upon delivery of written notice by Landlord this Lease shall terminate on the date specified by Landlord in such notice and Tenant shall immediately surrender possession of the Premises

to Landlord. In addition, the Landlord shall have the immediate right of re-entry whether or not this Lease is terminated, and if this right of re-entry is exercised following abandonment of the Premises by Tenant, Landlord may consider any personal property belonging to Tenant and left on the Premises to also have been abandoned. No re-entry or taking possession of the Premises by Landlord pursuant to this Section 21 shall be construed as an election to terminate this Lease unless a written notice of such intention is given to Tenant. If Landlord relets the Premises or any portion thereof, (i) Tenant shall be liable immediately to Landlord for all costs Landlord incurs in reletting the Premises or any part thereof, including, without limitation, broker's commissions, expenses of cleaning, redecorating, and further improving the Premises and other similar costs (collectively, the "Reletting Costs"), and (ii) the rent received by Landlord from such reletting shall be applied to the payment of, first, any indebtedness from Tenant to Landlord other than Base Rent, Operating Expenses, Tax Expenses, Common Area Utility Costs, and Utility Expenses; second, all costs including maintenance, incurred by Landlord in reletting; and, third, Base Rent, Operating Expenses, Tax Expenses, Common Area Utility Costs, Utility Expenses, and all other sums due under this Lease. Any and all of the Reletting Costs shall be fully chargeable to Tenant and shall not be prorated or otherwise amortized in relation to any new lease for the Premises or any portion thereof. After deducting the payments referred to above, any sum remaining from the rental Landlord receives from reletting shall be held by Landlord and applied in payment of future Rent as Rent becomes due under this Lease. In no event shall Tenant be entitled to any excess rent received by Landlord. Reletting may be for a period shorter or longer than the remaining term of this Lease. No act by Landlord other than giving written notice to Tenant shall terminate this Lease. Acts of maintenance, efforts to relet the Premises or the appointment of a receiver on Landlord's initiative to protect Landlord's interest under this Lease shall not constitute a termination of Tenant's right to possession. So long as this Lease is not terminated, Landlord shall have the right to remedy any default of Tenant, to maintain or improve the Premises, to cause a receiver to be appointed to administer the Premises and new or existing subleases and to add to the Rent payable hereunder all of Landlord's reasonable costs in so doing, with interest at the maximum rate permitted by law from the date of such expenditure.

21.2 DAMAGES RECOVERABLE: If Tenant breaches this Lease and abandons the Premises before the end of the Term, or if Tenant's right to possession is terminated by Landlord because of a breach or default of the Lease, then in either such case, Landlord may recover from Tenant all damages suffered by Landlord as a result of Tenant's failure to perform its obligations hereunder, including, but not limited to, the unamortized portion of any broker's or leasing agent's commission incurred with respect to the leasing of the Premises to Tenant for the balance of the Term of the Lease remaining after the date on which Tenant is in default of its obligations hereunder to the extent such sums are not already included as part of the calculation of damages, and all Reletting Costs, and the worth at the time of the award (computed in accordance with paragraph (3) of Subdivision (a) of Section 1951.2 of the California Civil Code) of the amount by which the Rent then unpaid hereunder for the balance of the Lease Term exceeds the amount of such loss of Rent for the same period which Tenant proves could be reasonably avoided by Landlord and in such case, Landlord prior to the award, may relet the Premises for the purpose of mitigating damages suffered by Landlord because of Tenant's failure to perform its obligations hereunder; provided, however, that even though Tenant has abandoned the Premises following such breach, this Lease shall nevertheless continue in full force and effect for as long as Landlord does not terminate Tenant's right of possession, and until such termination, Landlord shall have the remedy described in Section 1951.4 of the California Civil Code (Landlord may continue this Lease in effect after Tenant's breach and abandonment and recover Rent as it becomes due, if Tenant has the right to sublet or assign, subject only to reasonable limitations) and may enforce all its rights and remedies under this Lease, including the right to recover the Rent from Tenant as it becomes due hereunder. The "worth at the time of the award" within the meaning of Subparagraphs (a)(1) and (a)(2) of Section 1951.2 of the California Civil Code shall be computed by allowing interest at the rate of ten percent (10%) per annum. Tenant waives redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179, or under any other present or future law, in the event Tenant is evicted or Landlord takes possession of the Premises by reason of any default of Tenant hereunder.

21.3 RIGHTS AND REMEDIES CUMULATIVE: The foregoing rights and remedies of Landlord are not exclusive; they are cumulative in addition to any rights and remedies now or hereafter existing at law, in equity by statute or otherwise, or to any equitable remedies Landlord may have, and to any remedies Landlord may have under bankruptcy laws or laws affecting creditor's rights generally.

21.4 WAIVER OF A DEFAULT: The waiver by Landlord of any material default or breach of any provision of this Lease shall not be deemed or construed a waiver of any other material breach or default by Tenant hereunder or of any subsequent material breach or default of this Lease, except for the default specified in the waiver.

22. HOLDING OVER: If Tenant holds possession of the Premises after the expiration of the Term of this Lease with Landlord's consent, Tenant shall become a tenant from month-to-month upon the terms and provisions of this Lease, provided the monthly Base Rent during such hold over period shall be 125% of the Base Rent due on the last month of the Lease Term, payable in advance on or before the first day of each month. Acceptance by Landlord of the monthly Base Rent without the additional twenty-five percent (25%) increase of Base Rent shall not be deemed or construed as a waiver by Landlord of any of its rights to collect the increased amount of the Base Rent as provided herein at any time. Such month-to-month tenancy shall not constitute a renewal or extension for any further term. All options, if any, granted under the terms of this Lease shall be deemed automatically terminated and be of no force or effect during said month-to-month tenancy. Tenant shall continue in possession until such tenancy shall be terminated by either Landlord or Tenant giving written notice of termination to the other party at least thirty (30) days prior to the effective date of termination.

This paragraph shall not be construed as Landlord's permission for Tenant to hold over. Acceptance of Base Rent by Landlord following expiration or termination of this Lease shall not constitute a renewal of this Lease. If Tenant provides Landlord with at least twelve (12) months advance written notice of Tenant's intention to hold over and the anticipated hold over period of time, Landlord shall not be entitled to any consequential damages arising from such hold over for the hold over period specified in such written notice; provided, however, the foregoing shall not be considered as Landlord's waiver of the requirement for Tenant to pay such additional twenty-five percent (25%) increase of Base Rent during such holdover period as contemplated above.

23. **LANDLORD'S DEFAULT:** Landlord shall not be deemed in breach or default of this Lease unless Landlord fails within a reasonable time to perform an obligation required to be performed by Landlord hereunder. For purposes of this provision, a reasonable time shall not be less than thirty (30) days after receipt by Landlord of written notice specifying the nature of the obligation Landlord has not performed (except for any items of repair or maintenance for which a prompter response would be reasonably necessary or appropriate given the then existing circumstances); provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days, after receipt of written notice, is reasonably necessary for its performance, then Landlord shall not be in breach or default of this Lease if performance of such obligation is commenced within such thirty (30) day period and thereafter diligently pursued to completion.

24. **PARKING:** Tenant shall have a license to use the number of undesignated and nonexclusive parking spaces set forth on Page 1. Landlord shall exercise reasonable efforts to insure that such spaces are available to Tenant for its use, but Landlord shall not be required to enforce Tenant's right to use the same. Tenant shall have the exclusive right to use up to ten (10) parking spaces, in locations designated by Landlord, in close proximity to the entrance of each of the Buildings for Tenant's exclusive use for visitor parking; provided, Tenant shall be solely responsible for the payment of all costs associated with such striping and designation and Tenant's General Contractor shall perform the work associated therewith as part of the Tenant Improvements.

25. **SALE OF PREMISES:** In the event of any sale of the Premises by Landlord or the cessation otherwise of Landlord's interest therein, Landlord shall be and is hereby entirely released from any and all of its obligations to perform or further perform under this Lease and from all liability hereunder accruing or arising from and after the date of such sale; and the purchaser, at such sale or any subsequent sale of the Premises shall be deemed, without any further agreement between the parties or their successors in interest or between the parties and any such purchaser, to have assumed and agreed to carry out any and all of the covenants and obligations of the Landlord under this Lease except for those obligations of Landlord which have accrued prior to the date of such transfer. For purposes of this Section 25, the term "Landlord" means only the owner and/or agent of the owner as such parties exist as of the date on which Tenant executes this Lease. A ground lease or similar long term lease by Landlord of the entire Buildings, of which the Premises are a part, shall be deemed a sale within the meaning of this Section 25. Tenant agrees to attorn to such new owner provided such new owner does not disturb Tenant's use, occupancy or quiet enjoyment of the Premises so long as Tenant is not in default of any of the provisions of this Lease.

26. **WAIVER:** No delay or omission in the exercise of any right or remedy of Landlord on any default by Tenant shall impair such a right or remedy or be construed as a waiver. The subsequent acceptance of Rent by Landlord after breach by Tenant of any covenant or term of this Lease shall not be deemed a waiver of such breach, other than a waiver of timely payment for the particular Rent payment involved, and shall not prevent Landlord from maintaining an unlawful detainer or other action based on such breach. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly Rent and other sums due hereunder shall be deemed to be other than on account of the earliest Rent or other sums due, nor shall any endorsement or statement on any check or accompanying any check or payment be deemed an accord and satisfaction; and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or other sum or pursue any other remedy provided in this Lease. No failure, partial exercise or delay on the part of the Landlord in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

27. **CASUALTY DAMAGE:** If either of the Buildings or any part thereof shall be damaged by fire or other casualty, Tenant shall give prompt written notice thereof to Landlord. In case either of the Buildings shall be so damaged by fire or other casualty that fifty percent (50%) or more of the affected Building(s) requires substantial alteration or reconstruction, in Landlord's reasonable opinion, Landlord may, at its option, terminate this Lease with respect only to the affected Building by notifying Tenant in writing of such termination within ninety (90) days after the date of such damage, in which event the Rent shall be abated as of the date of such damage but only to the extent Tenant is not able to conduct its operations in the affected Building(s). If either of the Buildings or any part thereof shall be damaged by fire or other casualty such that the reparation of such damage or casualty shall require more than one hundred eighty (180) days to complete (subject to extension for Force Majeure Delays or Tenant Delays), then either Tenant or Landlord may terminate this Lease with respect only to the affected Building by notifying the other party of such election to terminate this Lease within thirty (30) days after the date on which it is determined by Landlord of the length of time necessary to substantially complete such repairs, in which event the Rent shall be abated as of the date of such damage but only to the extent Tenant is not able to conduct its operations in the affected Building(s). If neither party exercises their rights to so elect to terminate this Lease with respect only to the affected Building in accordance with the aforesaid provisions, and provided insurance proceeds are available to fully repair the damage (excluding any

deductible), Landlord shall within ninety (90) days after the date of such damage commence to repair and restore the affected Building(s) and shall proceed with reasonable diligence to restore the affected Building(s) (except that Landlord shall not be responsible for delays outside its control) to substantially the same condition in which it was immediately prior to the happening of the casualty; provided, Landlord shall not be required to rebuild, repair, or replace any part of Tenant's furniture, furnishings or fixtures and equipment removable by Tenant or any improvements, alterations or additions installed by or for the benefit of Tenant under the provisions of this Lease. Landlord shall not in any event be required to spend for such work an amount in excess of the insurance proceeds (excluding any deductible) actually received by Landlord as a result of the fire or other casualty. Landlord shall not be liable for any inconvenience or annoyance to Tenant, injury to the business of Tenant, loss of use of any part of the Premises by the Tenant or loss of Tenant's personal property resulting in any way from such damage or the repair thereof, except that, subject to the provisions of the next sentence, Landlord shall allow Tenant a fair diminution of Rent during the time and to the extent the affected Building(s) is unfit for occupancy. Notwithstanding anything to the contrary contained herein, if either of the Buildings or any other portion thereof be damaged by fire or other casualty resulting from the intentional or negligent acts or omissions of Tenant or any of Tenant's Representatives, (i) the Rent shall not be diminished during the repair of such damage, (ii) Tenant shall not have any right to terminate this Lease with respect only to the affected Building due to the occurrence of such casualty or damage, and (iii) Tenant shall be liable to Landlord for the cost and expense of the repair and restoration of all or any portion of the affected Building(s) caused thereby (including, without limitation, any deductible) to the extent such cost and expense is not covered by insurance proceeds. In the event the holder of any indebtedness secured by the affected Building(s) requires that the insurance proceeds be applied to such indebtedness, then Landlord shall have the right to terminate this Lease with respect only to the affected Building by delivering written notice of termination to Tenant within thirty (30) days after the date of notice to Tenant of any such event, whereupon all rights and obligations shall cease and terminate hereunder with respect only to the affected Building except for those obligations expressly intended to survive any such termination of this Lease. Any notices required to be delivered pursuant to the provisions of this Section 27 shall be in compliance with the notice requirements of Section 31.10 of this Lease. Except as otherwise provided in this Section 27, Tenant hereby waives the provisions of Sections 1932(2.), 1933 (4.), 1941 and 1942 of the California Civil Code.

28. CONDEMNATION: If twenty-five percent (25%) or more of the Premises is condemned by eminent domain, inversely condemned or sold in lieu of condemnation for any public or quasi-public use or purpose ("Condemned"), then Tenant or Landlord may terminate this Lease as of the date when physical possession of the Premises is taken and title vests in such condemning authority, and Rent shall be adjusted to the date of termination. Tenant shall not because of such condemnation assert any claim against Landlord or the condemning authority for any compensation because of such condemnation, and Landlord shall be entitled to receive the entire amount of any award without deduction for any estate of interest or other interest of Tenant; provided, however, the foregoing provisions shall not preclude Tenant, at Tenant's sole cost and expense, from obtaining any separate award to Tenant for loss of or damage to Tenant's trade fixtures and removable personal property or for damages for cessation or interruption of Tenant's business provided such award is separate from Landlord's award and provided further such separate award does not diminish nor impair the award otherwise payable to Landlord. In addition to the foregoing, Tenant shall be entitled to seek compensation for the relocation costs recoverable by Tenant pursuant to the provisions of California Government Code Section 7262. If a substantial portion of the Premises, Buildings or the Lot is so Condemned, Landlord or Tenant may terminate this Lease. If neither party elects to terminate this Lease, Landlord shall, if necessary, promptly proceed to restore the Premises or the Buildings to substantially its same condition prior to such partial condemnation, allowing for the reasonable effects of such partial condemnation, and a proportionate allowance shall be made to Tenant, as reasonably determined by Landlord, for the Rent corresponding to the time during which, and to the part of the Premises of which, Tenant is deprived on account of such partial condemnation and restoration. Landlord shall not be required to spend funds for restoration in excess of the amount received by Landlord as compensation awarded.

29. ENVIRONMENTAL MATTERS/HAZARDOUS MATERIALS:

29.1 HAZARDOUS MATERIALS DISCLOSURE CERTIFICATE: Prior to executing this Lease, Tenant has completed, executed and delivered to Landlord Tenant's initial Hazardous Materials Disclosure Certificate (the "Initial HazMat Certificate"), a copy of which is attached hereto as Exhibit G and incorporated herein by this reference. Tenant covenants, represents and warrants to Landlord that the information on the Initial HazMat Certificate is true and correct, to the best of Tenant's knowledge, and accurately describes the use(s) of Hazardous Materials which will be made and/or used on the Premises by Tenant. Commencing with the date which is one year from the Commencement Date and continuing every year thereafter, Tenant shall complete, execute, and deliver to Landlord, a Hazardous Materials Disclosure Certificate ("the "HazMat Certificate") describing Tenant's present use of Hazardous Materials on the Premises, and any other reasonably necessary documents as requested by Landlord. The HazMat Certificate required hereunder shall be in substantially the form as that which is attached hereto as Exhibit E. Landlord hereby acknowledges and agrees that as of the date on which both parties execute and deliver this Lease, Landlord has approved the Initial HazMat Certificate; however, any such approval by Landlord shall not be construed to relieve Tenant from its obligations and/or any liabilities under the provisions of this Section 29.

29.2 DEFINITION OF HAZARDOUS MATERIALS: As used in this Lease, the term Hazardous Materials shall mean and include (a) any hazardous or toxic wastes, materials or substances, and other pollutants or contaminants, which are or become regulated by any Environmental Laws; (b) petroleum, petroleum by

products, gasoline, diesel fuel, crude oil or any fraction thereof; (c) asbestos and asbestos containing material, in any form, whether friable or non-friable;

(d) polychlorinated biphenyls; (e) radioactive materials; (f) lead and lead-containing materials; (g) any other material, waste or substance displaying toxic, reactive, ignitable or corrosive characteristics, as all such terms are used in their broadest sense, and are defined or become defined by any Environmental Law (defined below); or (h) any materials which cause or threatens to cause a nuisance upon or waste to any portion of the Premises, the Buildings, the Lot, the Park or any surrounding property; or poses or threatens to pose a hazard to the health and safety of persons on the Premises or any surrounding property.

29.3 PROHIBITION; ENVIRONMENTAL LAWS: Except for and to the extent of the type and quantities of Hazardous Materials specified in the Initial HazMat Certificate, Tenant shall not be entitled to use nor store any Hazardous Materials on, in, or about the Premises, the Buildings, the Lot and the Park, or any portion of the foregoing, without, in each instance, obtaining Landlord's prior written consent thereto. If Landlord consents to any such usage or storage, then Tenant shall be permitted to use and/or store only those Hazardous Materials that are necessary for Tenant's business and to the extent disclosed in the HazMat Certificate and as expressly approved by Landlord in writing, provided that such usage and storage is only to the extent of the quantities of Hazardous Materials as specified in the then applicable HazMat Certificate as expressly approved by Landlord and provided further that such usage and storage is in full compliance with any and all local, state and federal environmental, health and/or safety-related laws, statutes, orders, standards, courts' decisions, ordinances, rules and regulations (as interpreted by judicial and administrative decisions), decrees, directives, guidelines, permits or permit conditions, currently existing and as amended, enacted, issued or adopted in the future which are or become applicable to Tenant or all or any portion of the Premises (collectively, the "Environmental Laws"). Tenant agrees that any changes to the type and/or quantities of Hazardous Materials specified in the most recent HazMat Certificate may be implemented only with the prior written consent of Landlord, which consent may be given or withheld in Landlord's reasonable discretion. Tenant shall not be entitled nor permitted to install any tanks under, on or about the Premises for the storage of Hazardous Materials without the express written consent of Landlord, which may be given or withheld in Landlord's sole discretion. Landlord shall have the right at all times during the Term of this Lease, upon reasonable advance notice to Tenant, to (i) inspect the Premises, (ii) conduct tests and investigations to determine whether Tenant is in compliance with the provisions of this Section 29, and (iii) request lists of all Hazardous Materials used, stored or otherwise located on, under or about the Premises, the Common Areas and/or the parking lots. The cost of all such inspections, tests and investigations shall be borne solely by Tenant, if Landlord reasonably determines that Tenant or any of Tenant's Representatives are directly or indirectly responsible in any manner for any contamination revealed by such inspections, tests and investigations. The aforementioned rights granted herein to Landlord and its representatives shall not create (a) a duty on Landlord's part to inspect, test, investigate, monitor or otherwise observe the Premises or the activities of Tenant and Tenant's Representatives with respect to Hazardous Materials, including without limitation, Tenant's operation, use and any remediation related thereto, or (b) liability on the part of Landlord and its representatives for Tenant's use, storage, disposal or remediation of Hazardous Materials, it being understood that Tenant shall be solely responsible for all liability in connection therewith.

29.4 TENANT'S ENVIRONMENTAL OBLIGATIONS: Tenant shall give to Landlord immediate verbal and follow-up written notice of any spills, releases, discharges, disposals, emissions, migrations, removals or transportation of Hazardous Materials by Tenant, Tenant's Representatives or by any other party in the event Tenant or Tenant's Representatives has actual knowledge thereof, on, under or about the Premises, or in any Common Areas or parking lots. Tenant, at its sole cost and expense, covenants and warrants to promptly investigate, clean up, remove, restore and otherwise remediate (including, without limitation, preparation of any feasibility studies or reports and the performance of any and all closures) any spill, release, discharge, disposal, emission, migration or transportation of Hazardous Materials arising from or related to the intentional or negligent acts or omissions of Tenant or Tenant's Representatives such that the affected portions of the Park and any adjacent property are returned to the condition existing prior to the appearance of such Hazardous Materials. Any such investigation, clean up, removal, restoration and other remediation shall only be performed after Tenant has obtained Landlord's prior written consent, which consent shall not be unreasonably withheld so long as such actions would not potentially have a material adverse long-term or short-term effect on the Premises, the Buildings, the Lot or the Park, or any portion of any of the foregoing. Notwithstanding the foregoing, Tenant shall be entitled to respond immediately to an emergency without first obtaining Landlord's prior written consent. Tenant, at its sole cost and expense, shall conduct and perform, or cause to be conducted and performed, all closures as required by any Environmental Laws or any agencies or other governmental authorities having jurisdiction thereof. If Tenant fails to so promptly investigate, clean up, remove, restore, provide closure or otherwise so remediate, Landlord may, but without obligation to do so, take any and all steps necessary to rectify the same and Tenant shall promptly reimburse Landlord, upon demand, for all reasonable costs and expenses to Landlord of performing investigation, clean up, removal, restoration, closure and remediation work. All such work undertaken by Tenant, as required herein, shall be performed in such a manner so as to enable Landlord to make full economic use of the Premises, the Buildings, the Lot and the Park after the satisfactory completion of such work.

29.5 ENVIRONMENTAL INDEMNITY: In addition to Tenant's obligations as set forth hereinabove but subject to the provisions of Section 29.7 below, Tenant agrees to, and shall, protect, indemnify, defend (with counsel reasonably acceptable to Landlord) and hold Landlord and Landlord's lenders, members, partners, property management company (if other than Landlord), agents, directors, officers, employees, representatives, contractors, shareholders, successors and assigns and each of their respective partners, directors, employees, representatives, agents, contractors, shareholders, successors and assigns harmless from and against any and all claims, judgments, damages, penalties, fines, liabilities, losses (including, without limitation, diminution in value

of the Premises, the Buildings, the Lot, the Park, or any portion of any of the foregoing, damages for the loss of or restriction on the use of rentable or usable space, and from any adverse impact of Landlord's marketing of any space within the Buildings and/or Park), suits, administrative proceedings and costs (including, but not limited to, reasonable attorneys' and consultant fees and court costs) arising at any time during or after the Term of this Lease in connection with or related to, directly or indirectly, the use, presence, transportation, storage, disposal, migration, removal, spill, release or discharge of Hazardous Materials on, in or about the Premises, or in any Common Areas or parking lots as a result (directly or indirectly) of the intentional or negligent acts or omissions of Tenant or Tenant's Representatives. Neither the written consent of Landlord to the presence, use or storage of Hazardous Materials in, on, under or about any portion of the Premises, the Buildings, the Lot and the Park, nor the strict compliance by Tenant with all Environmental Laws shall excuse Tenant from its obligations of indemnification pursuant hereto. Tenant shall not be relieved of its indemnification obligations under the provisions of this Section 29.5 as a result of Landlord's status as either an "owner" or "operator" under any Environmental Laws.

29.6 SURVIVAL: Tenant's obligations and liabilities pursuant to the provisions of this Section 29 shall survive the expiration or earlier termination of this Lease. If it is determined by Landlord that the condition of all or any portion of the Premises, the Buildings, the Lot and/or the Park is not in compliance with the provisions of this Lease with respect to Hazardous Materials, including without limitation all Environmental Laws at the expiration or earlier termination of this Lease, then at Landlord's sole option, Landlord may require Tenant to hold over possession of the Premises until Tenant can surrender the Premises to Landlord in the condition in which the Premises existed as of the Commencement Date and prior to the appearance of such Hazardous Materials except for reasonable wear and tear, including without limitation, the conduct or performance of any closures as required by any Environmental Laws. For purposes hereof, the term "reasonable wear and tear" shall not include any deterioration in the condition or diminution of the value of any portion of the Premises, the Buildings, the Lot and/or the Park in any manner whatsoever related to directly, or indirectly, Hazardous Materials. Any such holdover by Tenant will be with Landlord's consent, will not be terminable by Tenant in any event or circumstance and will otherwise be subject to the provisions of Section 22 of this Lease.

29.7 EXCULPATION OF TENANT: Tenant shall not be liable to Landlord for nor otherwise obligated to Landlord under any provision of the Lease with respect to the following: (i) any claim, remediation, obligation, investigation, obligation, liability, cause of action, attorney's fees, consultants' cost, expense or damage resulting from any Hazardous Materials present in, on or about the Premises or the Buildings to the extent not caused nor otherwise permitted, directly or indirectly, by Tenant or Tenant's Representatives; or (ii) the removal, investigation, monitoring or remediation of any Hazardous Material present in, on or about the Premises or the Buildings directly caused by any source, including third parties, other than Tenant or Tenant's Representatives; provided, however, Tenant shall be fully liable for and otherwise obligated to Landlord under the provisions of this Lease for all liabilities, costs, damages, penalties, claims, judgments, expenses (including without limitation, attorneys' and experts' fees and costs) and losses to the extent (a) Tenant or any of Tenant's Representatives contributes to the presence of such Hazardous Materials, or Tenant and/or any of Tenant's Representatives exacerbates the conditions caused by such Hazardous Materials, or (b) Tenant and/or Tenant's Representatives allows or permits persons over which Tenant or any of Tenant's Representatives has control, and/or for which Tenant or any of Tenant's Representatives are legally responsible for, to cause such Hazardous Materials to be present in, on, under, through or about any portion of the Premises, the Common Areas, the Buildings or the Park, or (c) Tenant and/or any of Tenant's Representatives does not take all reasonably appropriate actions to prevent such persons over which Tenant or any of Tenant's Representatives has control and/or for which Tenant or any of Tenant's Representatives are legally responsible from causing the presence of Hazardous Materials in, on, under, through or about any portion of the Premises, the Common Areas, the Buildings or the Park.

30. FINANCIAL STATEMENTS: Tenant, for the reliance of Landlord, any lender holding or anticipated to acquire a lien upon the Premises, the Buildings or the Park or any portion thereof, or any prospective purchaser of the Buildings or the Park or any portion thereof, within thirty (30) days after Landlord's request therefor, but not more often than once annually so long as Tenant is not in default of this Lease, shall deliver to Landlord the then current audited financial statements of Tenant (including interim periods following the end of the last fiscal year for which annual statements are available) which statements shall be prepared or compiled by a certified public accountant and shall present fairly the financial condition of Tenant at such dates and the result of its operations and changes in its financial positions for the periods ended on such dates. So long as Tenant is a publicly-traded entity, Tenant's publicly-filed financial statements shall be satisfactory for the satisfaction of the foregoing requirement. If an audited financial statement has not been prepared, Tenant shall provide Landlord with an unaudited financial statement and/or such other information, the type and form of which are acceptable to Landlord in Landlord's reasonable discretion, which reflects the financial condition of Tenant. If Landlord so requests, Tenant shall deliver to Landlord an opinion of a certified public accountant, including a balance sheet and profit and loss statement for the most recent prior year, all prepared in accordance with generally accepted accounting principles consistently applied. Any and all options granted to Tenant hereunder shall be subject to and conditioned upon Landlord's reasonable approval of Tenant's financial condition at the time of Tenant's exercise of any such option.

31. GENERAL PROVISIONS:

31.1 TIME. Time is of the essence in this Lease and with respect to each and all of its provisions in which performance is a factor.

31.2 SUCCESSORS AND ASSIGNS. The covenants and conditions herein contained, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of the parties hereto.

31.3 RECORDATION. Tenant shall not record this Lease or a short form memorandum hereof without the prior written consent of the Landlord.

31.4 LANDLORD'S PERSONAL LIABILITY. The liability of Landlord (which, for purposes of this Lease, shall include Landlord and the owner of the Buildings if other than Landlord) to Tenant for any default by Landlord under the terms of this Lease shall be limited to the actual interest of Landlord and its present or future partners or members in the Park, and Tenant agrees to look solely to the Park for satisfaction of any liability and shall not look to other assets of Landlord nor seek any recourse against the assets of the individual members, partners, directors, officers, shareholders, agents or employees of Landlord; it being intended that Landlord and the individual partners, members, directors, officers, shareholders, agents or employees of Landlord shall not be personally liable in any manner whatsoever for any judgment or deficiency. The liability of Landlord under this Lease is limited to its actual period of ownership of title to the Buildings, and Landlord shall be automatically released from further performance under this Lease and from all further liabilities and expenses accruing hereunder after the date of such transfer of Landlord's interest in the Buildings. The foregoing shall not in any way limit or impair Tenant's right, if any, to recover proceeds of insurance or any condemnation award in accordance with the provisions of this Lease.

31.5 SEPARABILITY. Any provisions of this Lease which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provisions hereof and such other provision shall remain in full force and effect.

31.6 CHOICE OF LAW. This Lease shall be governed by the laws of the State of California.

31.7 ATTORNEYS' FEES. In the event any dispute between the parties results in litigation or other proceeding or any other litigation involving the parties arises from this Lease, the prevailing party shall be reimbursed by the party not prevailing for all reasonable costs and expenses, including, without limitation, reasonable attorneys' and experts' fees and costs incurred by the prevailing party in connection with such litigation or other proceeding, and any appeal thereof. Such costs, expenses and fees shall be included in and made a part of the judgment recovered by the prevailing party, if any.

31.8 ENTIRE AGREEMENT. This Lease supersedes any prior agreements, representations, negotiations or correspondence between the parties, and contains the entire agreement of the parties on matters covered. No other agreement, statement or promise made by any party, that is not in writing and signed by all parties to this Lease, shall be binding.

31.9 WARRANTY OF AUTHORITY. On the date that Tenant executes this Lease, Tenant shall deliver to Landlord an original certificate of status for Tenant issued by the California Secretary of State or statement of partnership for Tenant recorded in the county in which the Premises are located, as applicable, and such other documents as Landlord may reasonably request with regard to the lawful existence of Tenant. Each person executing this Lease on behalf of a party represents and warrants that (1) such person is duly and validly authorized to do so on behalf of the entity it purports to so bind, and (2) if such party is a limited liability company, partnership, corporation or trustee, that such limited liability company, partnership, corporation or trustee has full right and authority to enter into this Lease and perform all of its obligations hereunder.

31.10 NOTICES. Any and all notices and demands required or permitted to be given hereunder to Landlord shall be in writing and shall be sent: (a) by United States mail, certified and postage prepaid; or (b) by personal delivery; or (c) by overnight courier, addressed to Landlord at 101 Lincoln Centre Drive, Fourth Floor, Foster City, California 94404-1167. Any and all notices and demands required or permitted to be given hereunder to Tenant shall be in writing and shall be sent: (i) by United States mail, certified and postage prepaid; or (ii) by personal delivery to any employee or agent of Tenant over the age of eighteen (18) years of age; or (iii) by overnight courier, all of which shall be addressed to Tenant at the Tenant's Address as provided on Page 1 of this Lease or otherwise provided to Landlord. Notice and/or demand shall be deemed given upon the earlier of actual receipt or the third day following deposit in the United States mail. Any notice or requirement of service required by any statute or law now or hereafter in effect, including, but not limited to, California Code of Civil Procedure Sections 1161, 1161.1, and 1162, is hereby waived by Tenant.

31.11 JOINT AND SEVERAL. If Tenant consists of more than one person or entity, the obligations of all such persons or entities shall be joint and several.

31.12 COVENANTS AND CONDITIONS. Each provision to be performed by Tenant hereunder shall be deemed to be both a covenant and a condition.

31.13 WAIVER OF JURY TRIAL. Intentionally omitted.

31.14 COUNTERCLAIMS. In the event Landlord commences any proceedings for nonpayment of Rent, Additional Rent, or any other sums or amounts due hereunder, Tenant shall not interpose any counterclaim of whatever nature or description in any such proceedings, provided, however, nothing contained herein shall be deemed or construed as a waiver of the Tenant's right to assert such claims in any separate action brought by Tenant or the right to offset the amount of any final judgment owed by Landlord to Tenant.

31.15 UNDERLINING. The use of underlining within the Lease is for Landlord's reference purposes only and no other meaning or emphasis is intended by this use, nor should any be inferred.

32. SIGNS: All signs and graphics of every kind visible in or from public view or corridors or the exterior of the Premises shall be subject to Landlord's prior written approval, which shall not be unreasonably withheld or delayed, and shall also be subject to any applicable governmental laws, ordinances, and regulations and in compliance with Landlord's sign criteria as same may exist from time to time or as set forth in Exhibit H hereto and made a part hereof. Tenant shall remove all such signs and graphics prior to the termination of this Lease. Such installations and removals shall be made in a manner as to avoid damage or defacement of the Premises; and Tenant shall repair any damage or defacement, including without limitation, discoloration caused by such installation or removal. Landlord shall have the right, at its option, to demand payment from Tenant of such sums as are reasonably necessary to remove such signs, including, but not limited to, the costs and expenses associated with any repairs necessitated by such removal. Notwithstanding the foregoing, in no event shall any: (a) neon, flashing or moving sign(s) or (b) sign(s) which shall interfere with the visibility of any sign, awning, canopy, advertising matter, or decoration of any kind of any other business or occupant of the Buildings or the Park be permitted hereunder. Tenant further agrees to maintain any such sign, awning, canopy, advertising matter, lettering, decoration or other thing as may be approved in good condition and repair at all times.

33. MORTGAGEE PROTECTION: Upon any breach or default on the part of Landlord, Tenant will give written notice by registered or certified mail to any beneficiary of a deed of trust or mortgagee of a mortgage covering the Premises who has provided Tenant with notice of their interest together with an address for receiving notice, and shall offer such beneficiary or mortgagee a reasonable opportunity to cure the default (which, in no event shall be more than ninety (90) days), including time to obtain possession of the Premises by power of sale or a judicial foreclosure, if such should prove necessary to effect a cure. If such breach or default cannot be cured within such time period, then such additional time as may be necessary will be given to such beneficiary or mortgagee to effect such cure so long as such beneficiary or mortgagee has commenced the cure within the original time period and thereafter diligently pursues such cure to completion, in which event this Lease shall not be terminated while such cure is being diligently pursued. Tenant agrees that each lender to whom this Lease has been assigned by Landlord is an express third party beneficiary hereof. Tenant shall not make any prepayment of Rent more than one (1) month in advance without the prior written consent of each such lender, except if Tenant is required to make quarterly payments of Rent in advance pursuant to the provisions of Section 8 above. Tenant agrees to make all payments under this Lease to the lender with the most senior encumbrance upon receiving a direction, in writing, to pay said amounts to such lender. Tenant shall comply with such written direction to pay without determining whether an event of default exists under such lender's loan to Landlord.

34. QUITCLAIM: Upon any termination of this Lease, Tenant shall, at Landlord's request, execute, have acknowledged and deliver to Landlord a quitclaim deed of Tenant's interest in and to the Premises.

35. MODIFICATIONS FOR LENDER: If, in connection with obtaining financing for the Premises or any portion thereof, Landlord's lender shall request reasonable modification(s) to this Lease as a condition to such financing, Tenant shall not unreasonably withhold, delay or defer its consent thereto, provided such modifications do not materially adversely affect Tenant's rights hereunder or the use, occupancy or quiet enjoyment of Tenant hereunder.

36. WARRANTIES OF TENANT: Tenant hereby warrants and represents to Landlord, for the express benefit of Landlord, that Tenant has undertaken a complete and independent evaluation of the risks inherent in the execution of this Lease and the operation of the Premises for the use permitted hereby, and that, based upon said independent evaluation, Tenant has elected to enter into this Lease and hereby assumes all risks with respect thereto. Each party hereby warrants and represents to the other party, for the express benefit of the other party, that in entering into this Lease, the warranting party has not relied upon any statement, fact, promise or representation (whether express or implied, written or oral) not specifically set forth herein in writing and that any statement, fact, promise or representation (whether express or implied, written or oral) made at any time to it, which is not expressly incorporated herein in writing, is hereby waived by it.

37. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT: Landlord and Tenant hereby agree and acknowledge that the Premises, the Buildings and/or the Park may be subject to the requirements of the Americans with Disabilities Act, a federal law codified at 42 U.S.C. 12101 et seq, including, but not limited to Title III thereof, all regulations and guidelines related thereto, together with any and all laws, rules, regulations, ordinances, codes and statutes now or hereafter enacted by local or state agencies having jurisdiction thereof, including all requirements of Title 24 of the State of California, as the same may be in effect on the date of this Lease and may be hereafter modified, amended or supplemented (collectively, the "ADA"). The Shell Improvements to be constructed hereunder shall be in compliance with the requirements of the ADA as of the date on which the Shell Improvements are Substantially Completed. Any Tenant Improvements to be constructed hereunder shall be in compliance with the requirements of the ADA, and all costs incurred for purposes of compliance therewith shall be a part of and included in the costs of the Tenant Improvements. Tenant shall be solely responsible for conducting its own independent investigation of this matter and for ensuring that the design of all Tenant Improvements strictly comply with all requirements of the ADA. Subject to reimbursement pursuant to Section

6 of the Lease, if any barrier removal work or other work is required to the Buildings, the Common Areas or the Park under the ADA, then such work shall be the responsibility of Landlord; provided, if such work is required under the ADA as a result of Tenant's use of the Premises or any work or alteration made to the Premises by or on behalf of Tenant, then such work shall be performed by Landlord at the sole cost and expense of Tenant. Except as otherwise expressly provided in this provision, Tenant shall be responsible at its sole cost and expense for fully and faithfully complying with all applicable requirements of the ADA, including without limitation, not discriminating against any disabled persons in the operation of Tenant's business in or about the Premises, and offering or otherwise providing auxiliary aids and services as, and when, required by the ADA. Within ten (10) days after receipt, Landlord and Tenant shall advise the other party in writing, and provide the other with copies of (as applicable), any notices alleging violation of the ADA relating to any portion of the Premises or the Buildings; any claims made or threatened in writing regarding noncompliance with the ADA and relating to any portion of the Premises or the Buildings; or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to any portion of the Premises or the Buildings. Tenant shall and hereby agrees to protect, defend (with counsel acceptable to Landlord) and hold Landlord and Landlord's lender(s), members, partners, employees, representatives, legal representatives, successors and assigns (collectively, the "Indemnitees") harmless and indemnify the Indemnitees from and against all liabilities, damages, claims, losses, penalties, judgments, charges and expenses (including reasonable attorneys' fees, costs of court and expenses necessary in the prosecution or defense of any litigation including the enforcement of this provision) arising from or in any way related to, directly or indirectly, Tenant's or Tenant's Representatives' violation of the ADA. Tenant agrees that the obligations of Tenant herein shall survive the expiration or earlier termination of this Lease.

38. BROKERAGE COMMISSION: Landlord and Tenant each represents and warrants for the benefit of the other that it has had no dealings with any real estate broker, agent or finder in connection with the Premises and/or the negotiation of this Lease, except for the Broker(s) (as set forth on Page 1), and that it knows of no other real estate broker, agent or finder who is or might be entitled to a real estate brokerage commission or finder's fee in connection with this Lease or otherwise based upon contacts between the claimant and Tenant. Each party shall indemnify and hold harmless the other from and against any and all liabilities or expenses arising out of claims made for a fee or commission by any real estate broker, agent or finder in connection with the Premises and this Lease other than Broker(s), if any, resulting from the actions of the indemnifying party. Any real estate brokerage commission or finder's fee payable to the Broker(s) in connection with this Lease shall only be payable and applicable to the extent of the initial term of the Lease and to the extent of the Premises as same exist as of the date on which Tenant executes this Lease. Unless expressly agreed to in writing by Landlord and Broker(s), no real estate brokerage commission or finder's fee shall be owed to, or otherwise payable to, the Broker(s) for any renewals or other extensions of the initial Term of this Lease or for any additional space leased by Tenant other than the Premises as same exists as of the date on which Tenant executes this Lease. Tenant further represents and warrants to Landlord that Tenant will not receive (i) any portion of any brokerage commission or finder's fee payable to the Broker(s) in connection with this Lease or (ii) any other form of compensation or incentive from the Broker(s) with respect to this Lease.

39. QUIET ENJOYMENT: Landlord covenants with Tenant, upon the paying of Rent and observing and keeping the covenants, agreements and conditions of this Lease on its part to be kept, and during the periods that Tenant is not otherwise in default of any of the terms or provisions of this Lease, and subject to the rights of any of Landlord's lenders, (i) that Tenant shall and may peaceably and quietly hold, occupy and enjoy the Premises and the Common Areas during the Term of this Lease, and (ii) neither Landlord, nor any successor or assign of Landlord, shall disturb Tenant's occupancy or enjoyment of the Premises and the Common Areas.

40. LANDLORD'S ABILITY TO PERFORM TENANT'S UNPERFORMED OBLIGATIONS:

Notwithstanding anything to the contrary contained in this Lease, if Tenant shall fail to perform any of the terms, provisions, covenants or conditions to be performed or complied with by Tenant pursuant to this Lease, and/or if the failure of Tenant relates to a matter which in Landlord's judgment reasonably exercised is of an emergency nature and such failure shall remain uncured for a period of time commensurate with such emergency, then Landlord may, at Landlord's option without any obligation to do so, and in its sole discretion as to the necessity therefor, perform any such term, provision, covenant, or condition, or make any such payment and Landlord by reason of so doing shall not be liable or responsible for any loss or damage thereby sustained by Tenant or anyone holding under or through Tenant. If Landlord so performs any of Tenant's obligations hereunder, the full amount of the cost and expense entailed or the payment so made or the amount of the loss so sustained shall immediately be owing by Tenant to Landlord, and Tenant shall promptly pay to Landlord upon demand, as Additional Rent, the full amount thereof with interest thereon from the date of payment at the greater of (i) ten percent (10%) per annum, or (ii) the highest rate permitted by applicable law and Enforcement Expenses.

41. TENANT'S ABILITY TO PERFORM LANDLORD'S UNPERFORMED OBLIGATIONS:

Notwithstanding anything to the contrary contained in this Lease, if Landlord shall fail to perform any of the terms, provisions, covenants or conditions to be performed or complied with by Landlord pursuant to this Lease after expiration of all applicable notice and cure periods for Landlord's and any mortgagee's benefit as set forth in Sections 23 and 33, respectively, and/or if the failure of Landlord relates to a matter which in Tenant's judgment reasonably exercised is of an emergency nature and such failure shall remain uncured for a period of time commensurate with such emergency, then Tenant may, at Tenant's option without any obligation to do so, after delivery of prior written notice to Landlord and affording Landlord an opportunity to cure such failure, perform any such term,

provision, covenant, or condition. If Tenant so performs any of Landlord's obligations hereunder, the full amount of the reasonable costs and expenses incurred shall immediately be owing by Landlord to Tenant, and Landlord shall pay to Tenant the full amount thereof within ninety (90) days of Landlord's receipt of Tenant's written demand and accompanying documentation therefor. If Landlord fails to pay such sums within said 90-day period, and provided there does not then exist a good faith dispute thereof on the part of Landlord, Tenant may deduct such sums so demanded from the next installment of Base Rent then due from Tenant hereunder.

IN WITNESS WHEREOF, this Lease is executed by the parties as of the Lease Date referenced on page 1 of this Lease.

TENANT:

Cisco Systems, Inc., a California corporation

By: /s/Nancy Bareilles

Its: VP

Date: 12-19-96

LANDLORD:

LINCOLN-WHITEHALL REALTY (WEST), L.L.C.,
a Delaware limited liability company

By: Lincoln Property Company Management Services, Inc., as manager and agent for LINCOLN-WHITEHALL REALTY (WEST), L.L.C.

By: /s/Barry DiRaimondo

Vice President
Date: 12/23/96

EXHIBIT A - PREMISES

PAGE 1 OF 1

LEASE DATED DECEMBER 12, 1996, BY AND BETWEEN

**CISCO SYSTEMS, INC.,
A CALIFORNIA CORPORATION
("TENANT"),**

AND

**LINCOLN-WHITEHALL REALTY (WEST), L.L.C.,
A DELAWARE LIMITED LIABILITY COMPANY**

PREMISES:

_____, CA _____ Approximately _____ rentable square feet plus _____ rentable square feet (proportionate share of electrical room) equals _____ total rentable square feet within Phase _____ of the Park

INITIALS:

TENANT: _____

LANDLORD: _____

**EXHIBIT B TO LEASE AGREEMENT
TENANT IMPROVEMENTS AND SHELL IMPROVEMENTS**

This exhibit, entitled "Tenant Improvements and Shell Improvements", is and shall constitute EXHIBIT B to that certain Lease Agreement dated December 12, 1996, (the "Lease"), by and between Lincoln-Whitehall Realty (West), L.L.C., a Delaware limited liability company ("Landlord"), and Cisco Systems, Inc., a California corporation ("Tenant"), for the leasing of certain premises located at Fortran Court and Baytech Drive, (Buildings A & B), San Jose, California (the "Premises"). The terms, conditions and provisions of this EXHIBIT B are hereby incorporated into and are made a part of the Lease. Any capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed to such terms as set forth in the Lease.

1. **TENANT TO CONSTRUCT TENANT IMPROVEMENTS.** Subject to the provisions below, Tenant shall be solely responsible for the planning, construction and completion of the interior tenant improvements ("Tenant Improvements") to the Premises in accordance with the terms and conditions of this Exhibit B. The Tenant Improvements shall not include any of Tenant's personal property, trade fixtures, furnishings, equipment or similar items.

2. **TENANT IMPROVEMENT PLANS.**

A. **PRELIMINARY PLANS AND SPECIFICATIONS.** Tenant shall retain a licensed, insured architect ("Architect") to prepare preliminary working architectural and engineering plans and specifications ("Preliminary Plans and Specifications") for the Tenant Improvements. Tenant shall deliver the Preliminary Plans and Specifications to Landlord. The Preliminary Plans and Specifications shall be in sufficient detail to show locations, types and requirements for all heat loads, people loads, floor loads, power and plumbing, regular and special HVAC needs, telephone communications, telephone and electrical outlets, lighting, lighting fixtures and related power, and electrical and telephone switches. Landlord shall reasonably approve or disapprove the Preliminary Plans and Specifications within five (5) days after Landlord receives the Preliminary Plans and Specifications and, if disapproved, Landlord shall return the Preliminary Plans and Specifications to Tenant, who shall make all necessary revisions within ten (10) days after Tenant's receipt thereof. This procedure shall be repeated until Landlord approves the Preliminary Plans and Specifications. The approved Preliminary Plans and Specifications, as modified, shall be deemed the "Final Preliminary Plans and Specifications".

B. **FINAL PLANS AND SPECIFICATIONS.** After the Final Preliminary Plans and Specifications are approved by Landlord and are deemed to be the Final Preliminary Plans and Specifications, Tenant shall cause the Architect to prepare in twenty (20) days following Landlord's approval of the Final Preliminary Plans and Specifications the final working architectural and engineering plans, specifications and drawings, ("Final Plans and Specifications") for the Tenant Improvements. Tenant shall then deliver the Final Plans and Specifications to Landlord. Landlord shall reasonably approve or disapprove the Final Plans and Specifications within five (5) days after Landlord receives the Final Plans and Specifications and, if disapproved, Landlord shall return the Final Plans and Specifications to Tenant who shall make all necessary revisions within ten (10) days after Tenant's receipt thereof. This procedure shall be repeated until Landlord approves, in writing, the Final Plans and Specifications. The approved Final Plans and Specifications, as modified, shall be deemed the "Construction Documents".

C. **MISCELLANEOUS.** All deliveries of the Preliminary Plans and Specifications, the Final Preliminary Plans and Specifications, the Final Plans and Specifications, and the Construction Documents shall be delivered by messenger service, by personal hand delivery or by overnight parcel service. While Landlord has the right to approve the Preliminary Plans and Specifications, the Final Preliminary Plans and Specifications, the Final Plans and Specifications, and the Construction Documents, Landlord's interest in doing so is to protect the Premises, the Buildings and Landlord's interest. Accordingly, Tenant shall not rely upon Landlord's approvals and Landlord shall not be the guarantor of, nor responsible for, the adequacy and correctness or accuracy of the Preliminary Plans and Specifications, the Final Preliminary Plans and Specifications, the Final Plans and Specifications, and the Construction Documents, or the compliance thereof with applicable laws, and Landlord shall incur no liability of any kind by reason of granting such approvals.

D. **BUILDING STANDARD WORK.** The Construction Documents shall provide that the Tenant Improvements to be constructed in accordance therewith must be at least equal, in quality, to Landlord's building standard materials, quantities and procedures then in use by Landlord ("Building Standards") attached hereto as Exhibit B-2. Notwithstanding the foregoing, so long as the Construction Documents are consistent with Tenant's Tasman buildings, the Construction Documents shall be considered to be in accordance with Landlord's Building Standards.

3. **PERMITS.** Tenant, at its sole cost and expense (subject to the provisions of Paragraph 5 below), shall obtain all governmental approvals of the Construction Documents to the full extent necessary for the issuance of a building permit for the Tenant Improvements based upon such Construction Documents. Tenant, at its sole cost and expense, shall also cause to be obtained all other necessary approvals and permits from all governmental agencies having jurisdiction or authority for the construction and installation of the Tenant Improvements in accordance with the approved Construction Documents. Tenant at its sole cost and expense (subject to the provisions of Paragraph 5 below) shall undertake all steps necessary to insure that the construction of the Tenant Improvements is accomplished in strict compliance with all statutes, laws, ordinances, codes, rules, and regulations applicable to the construction of the Tenant Improvements and the requirements and standards of

any insurance underwriting board, inspection bureau or insurance carrier insuring the Premises and/or the Buildings.

4. CONSTRUCTION.

A. Tenant shall be solely responsible for the construction, installation and completion of the Tenant Improvements in accordance with the Construction Documents approved by Landlord and is solely responsible for the payment of all amounts when payable in connection therewith without any cost or expense to Landlord, except for Landlord's obligation to contribute the Tenant Improvement Allowance in accordance with the provisions of Paragraph 5 below. Tenant shall diligently proceed with the construction, installation and completion of the Tenant Improvements in accordance with the Construction Documents and the completion schedule reasonably approved by Landlord. No material changes shall be made to the Construction Documents and the completion schedule approved by Landlord without Landlord's prior written consent, which consent shall not be unreasonably withheld or delayed.

B. Tenant at its sole cost and expense (subject to the provisions of Paragraph 5 below) shall employ a licensed, insured and bondable general contractor ("Contractor") to construct the Tenant Improvements in accordance with the Construction Documents. The construction contracts between Tenant and the Contractor and between the Contractor and subcontractors shall be subject to Landlord's prior written approval, which approval shall not be unreasonably withheld. In addition to the foregoing, each of such construction contracts shall include a provision that Landlord shall be a third party beneficiary in, to and under such construction contracts. Proof that the Contractor is licensed in California, is bondable as required under California law, and has the insurance specified in Exhibit B-1, attached hereto and incorporated herein by this reference, shall be provided to Landlord at the time that Tenant requests approval of the Contractor from Landlord. Tenant shall comply with or cause the Contractor to comply with all other terms and provisions of Exhibit B-1. Notwithstanding anything to the contrary contained herein, Landlord hereby approves of Devcon Construction Inc. to be selected by Tenant as the Contractor under this Exhibit B. Tenant shall keep the Premises and the property on which the Premises are situated free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Tenant with regard to the Tenant Improvements. Additionally, Tenant shall promptly discharge, bond or otherwise cause the release of any and all liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Tenant with regard to the Tenant Improvements regardless of any dispute Tenant or its Contractor may have regarding any such liens. In addition to the foregoing and in consideration for Landlord not requiring the Contractor to procure a bond with respect to the construction of the Tenant Improvements, Tenant agrees to protect, defend (with counsel acceptable to Landlord) and hold Landlord and the Indemnitees harmless and indemnify the Indemnitees from and against all liabilities, damages, claims, losses, judgments, charges and expenses (including reasonable attorneys' fees, costs of court and expenses necessary in the prosecution or defense of any litigation including the enforcement of this provision) arising from or in any way related to, directly or indirectly, the construction of the Tenant Improvements, including without limitation, the costs to complete the Tenant Improvements and all other matters for which a payment and performance bond would have otherwise provided coverage.

C. Prior to the commencement of the construction and installation of the Tenant Improvements, Tenant shall provide the following to Landlord, all of which shall be to Landlord's reasonable satisfaction:

(i) An estimated budget and cost breakdown for the Tenant Improvements.

(ii) Estimated completion schedule for the Tenant Improvements.

(iii) Copies of all required approvals and permits from governmental agencies having jurisdiction or authority for the construction and installation of the Tenant Improvements; provided, however, if prior to commencement of the construction and installation of Tenant Improvements Tenant has not received the electrical, plumbing or mechanical permits, Tenant shall only be required to provide Landlord with evidence that Tenant has made application therefor, and, upon receipt by Tenant of such permits, Tenant shall promptly provide Landlord with copies thereof.

(iv) Evidence of Tenant's procurement of insurance required to be obtained pursuant to the provisions of Paragraphs 4.B and 4.G.

D. Landlord shall at all reasonable times have a right to inspect the Tenant Improvements (provided Landlord does not materially interfere with the work being performed by the Contractor or its subcontractors) and Tenant shall immediately cease work upon written notice from Landlord if the Tenant Improvements are not in compliance with the Construction Documents approved by Landlord. If Landlord shall give notice of faulty construction or any other material deviation from the Construction Documents, Tenant shall cause the Contractor to make corrections promptly. However, neither the privilege herein granted to Landlord to make such inspections, nor the making of such inspections by Landlord, shall operate as a waiver of any rights of Landlord to require good and workmanlike construction and improvements constructed in accordance with the Construction Documents.

E. Subject to Landlord complying with its obligations in Paragraph 5 below, Tenant shall pay and discharge promptly and fully all claims for labor done and materials and services furnished in connection with the Tenant Improvements. The Tenant Improvements shall not be commenced until five (5) business days after Landlord has received notice from Tenant stating the date the construction of the Tenant Improvements is to commence so that Landlord can post and record any appropriate Notice of Non-Responsibility.

F. Tenant acknowledges and agrees that the agreements and covenants of Tenant in Sections 10 and 37 of the Lease shall be fully applicable to Tenant's construction of the Tenant Improvements.

G. Tenant shall maintain, and cause to be maintained, during the construction of the Tenant Improvements, at its sole cost and expense, insurance of the types and in the amounts specified in Exhibit B-1 and in Section 12 of the Lease, together with builders' risk insurance for the amount of the completed value of the Tenant Improvements on an all-risk non-reporting form covering all improvements under construction, including building materials, and other insurance in amounts and against such risks as the Landlord shall reasonably require in connection with the Tenant Improvements.

H. No materials, equipment or fixtures shall be delivered to or installed upon the Premises pursuant to any agreement by which another party has a security interest or rights to remove or repossess such items, without the prior written consent of Landlord, which consent shall not be unreasonably withheld.

I. Landlord reserves the right to establish reasonable rules and regulations for the use of the Buildings during the course of construction of the Tenant Improvements, including, but not limited to, construction parking, storage of materials, hours of work, use of elevators, and clean-up of construction related debris.

J. Upon completion of the Tenant Improvements, Tenant shall deliver to Landlord the following, all of which shall be to Landlord's reasonable satisfaction:

(i) Any certificates required for occupancy, including a permanent and complete Certificate of Occupancy issued by the City of San Jose.

(ii) A Certificate of Completion signed by the Architect who prepared the Construction Documents, reasonably approved by Landlord.

(iii) A cost breakdown itemizing all expenses for the Tenant Improvements, together with invoices and receipts for the same or other evidence of payment.

(iv) Final and unconditional mechanic's lien waivers for all the Tenant Improvements.

(v) A Notice of Completion for execution by Landlord, which certificate once executed by Landlord shall be recorded by Tenant in the official records of Santa Clara County, and Tenant shall then deliver to Landlord a true and correct copy of the recorded Notice of Completion.

(vi) A true and complete copy of all as-built plans and drawings for the Tenant Improvements.

K. The Tenant Improvements shall be deemed substantially complete on the date that the building officials of the applicable governmental agency(s) issues its final approval of the construction of the Tenant Improvements whether in the form of the issuance of a final permit, certificate of occupancy or the written approval evidencing its final inspection on the building permits, or the date on which Tenant first takes occupancy of the Premises for purposes other than to perform the Tenant's Pre-Occupancy Work (defined below), or the date that the Contractor issues a certificate stating that the Tenant Improvements have been substantially completed in accordance with the Construction Drawings, whichever first occurs ("Substantial Completion", or "Substantially Completed", or "Substantially Complete").

5. TENANT IMPROVEMENT ALLOWANCE.

A. Subject to Tenant's compliance with the provisions of this Exhibit B, Landlord shall provide to Tenant an allowance in the approximate amount of one million thirty-eight thousand nine hundred and 00/100 dollars and (\$1,038,900) based upon a rate of ten dollars (\$10.00) per rentable square foot of the Premises (the "Tenant Improvement Allowance") to construct and install only the Tenant Improvements. The actual amount of the Tenant Improvement Allowance shall be adjusted commensurately based upon the actual rentable square feet of the Premises after Landlord's Substantial Completion of the Shell Improvements. The Tenant Improvement Allowance shall be used to design, prepare, plan, obtain the approval of, construct and install the Tenant Improvements and for no other purpose. Except as otherwise expressly provided herein, Landlord shall have no obligation to contribute the Tenant Improvement Allowance unless and until the Construction Documents have been approved by Landlord and Tenant has complied with all requirements set forth in Paragraph 4.C. of this Exhibit B. The costs to be paid out of the Tenant Improvement Allowance shall include all reasonable costs and expenses associated with the design, preparation, approval, planning, construction and installation of the Tenant Improvements (the "Tenant Improvement Costs"), including all of the following:

(i) All costs of the Preliminary Plans and Specifications, the Final Plans and Specifications, and the Construction Documents, and engineering costs associated with completion of the State of California energy utilization calculations under Title 24 legislation:

(ii) All costs of obtaining building permits and other necessary authorizations from local governmental authorities;

- (iii) All costs of interior design and finish schedule plans and specifications including as-built drawings, if applicable;
- (iv) All direct and indirect costs of procuring, constructing and installing the Tenant Improvements in the Premises, including, but not limited to, the construction fee for overhead and profit and the cost of all on-site supervisory and administrative staff, office, equipment and temporary services rendered by the Contractor in connection with the construction of the Tenant Improvements; provided, however, that the construction fee for overhead and profit, the cost of all on-site supervisory and administrative staff, office, equipment and temporary services shall not exceed amounts which are reasonable and customary for such items in the local construction industry;
- (v) All fees payable to the Architect and any engineer if they are required to redesign any portion of the Tenant Improvements following Tenant's and Landlord's approval of the Construction Documents;
- (vi) Utility connection fees;
- (vii) Inspection fees and filing fees payable to local governmental authorities, if any;
- (viii) All costs of all permanently affixed equipment and non-trade fixtures provided for in the Construction Documents, including the cost of installation; and,
- (ix) A construction management fee (the "CM Fee") payable to Landlord in the amount of one percent (1%) of the aggregate of the hard costs for the construction and installation of the Tenant Improvements (excluding this CM Fee).

The Tenant Improvement Allowance shall be the maximum contribution by Landlord for the Tenant Improvement Costs, and the disbursement of the Tenant Improvement Allowance is subject to the terms contained hereinbelow.

Except for payment of the CM Fee, Landlord will make payments to Tenant from the Tenant Improvement Allowance to reimburse Tenant for Tenant Improvement Costs paid or incurred by Tenant. Payment of the CM Fee shall be the first payment from the Tenant Improvement Allowance and shall be made by means of a deduction or credit against the Tenant Improvement Allowance. All other payments of the Tenant Improvement Allowance shall be by progress payments not more frequently than once per month and only after satisfaction of the following conditions precedent: (a) receipt by Landlord of conditional mechanics' lien releases for the work completed and to be paid by said progress payment, conditioned only on the payment of the sums set forth in the mechanics' lien release, executed by the Contractor and all subcontractors, labor suppliers and materialmen; (b) receipt by Landlord of unconditional mechanics' lien releases from the Contractor and all subcontractors, labor suppliers and materialmen for all work other than that being paid by the current progress payment previously completed by the Contractor, subcontractors, labor suppliers and materialmen and for which Tenant has received funds from the Tenant Improvement Allowance to pay for such work; (c) receipt by Landlord of any and all documentation reasonably required by Landlord detailing the work that has been completed and the materials and supplies used as of the date of Tenant's request for the progress payment, including, without limitation, invoices, bills, or statements for the work completed and the materials and supplies used; and (d) completion by Landlord or Landlord's agents of any inspections of the work completed and materials and supplies used as deemed reasonably necessary by Landlord. Except for the CM Fee payment (credit), Tenant Improvement Allowance progress payments shall be paid to Tenant within fourteen (14) days from the satisfaction of the conditions set forth in the immediately preceding sentence. The preceding notwithstanding, all Tenant Improvement Costs paid or incurred by Tenant prior to Landlord's approval of the Construction Documents in connection with the design and planning of the Tenant Improvements by Architect shall be paid from the Tenant Improvement Allowance, without any retention, within fourteen (14) days following Landlord's receipt of invoices, bills or statements from Architect evidencing such costs. Notwithstanding the foregoing to the contrary, Landlord shall be entitled to withhold and retain five percent (5%) of the Tenant Improvement Allowance or of any Tenant Improvement Allowance progress payment until the lien-free expiration of the time for filing of any mechanics' liens claimed or which might be filed on account of any work ordered by Tenant or the Contractor or any subcontractor in connection with the construction and installation of the Tenant Improvements.

B. Landlord shall not be obligated to pay any Tenant Improvement Allowance progress payment or the Tenant Improvement Allowance retention if on the date Tenant is entitled to receive the Tenant Improvement Allowance progress payment or the Tenant Improvement Allowance retention Tenant is in material default of this Lease. Such payments shall resume upon Tenant curing any such default within the time periods which may be provided for in the Lease.

C. Should the total cost of constructing the Tenant Improvements be less than the Tenant Improvement Allowance, the Tenant Improvement Allowance shall be automatically reduced to the amount equal to said actual cost.

6. Termination. If the Lease is terminated prior to the date on which the Tenant Improvements are completed, for any reason due to the default of Tenant hereunder, in addition to any other remedies available to Landlord under the Lease, Tenant shall pay to Landlord as Additional Rent under the Lease, within five (5) days of receipt of a statement therefor, any and all costs incurred by Landlord and not reimbursed or otherwise paid by Tenant through the date of termination in connection with the Tenant Improvements to the extent

planned, installed and/or constructed as of such date of termination, including, but not limited to, any costs related to the removal of all or any portion of the Tenant Improvements and restoration costs related thereto. Except for any cafeteria and related items that are part of the Tenant Improvements for which Landlord will require Tenant, at its sole cost and expense, to demolish and/or remove from the Premises upon the expiration or earlier termination of this Lease, Landlord shall not require Tenant to demolish and/or remove any other items comprising the Tenant Improvements from the Premises upon the expiration or earlier termination of this Lease.

7. Lease Provisions; Conflict. The terms and provisions of the Lease, insofar as they are applicable, in whole or in part, to this EXHIBIT B, are hereby incorporated herein by reference, and specifically including all of the provisions of Section 31 of the Lease. In the event of any conflict between the terms of the Lease and this EXHIBIT B, the terms of this EXHIBIT B shall prevail. Any amounts payable by Tenant to Landlord hereunder shall be deemed to be Additional Rent under the Lease and, upon any default in the payment of same, Landlord shall have all rights and remedies available to it as provided for in the Lease.

8. Tenant Access. Landlord, in Landlord's reasonable discretion and upon receipt of written confirmation from Landlord's general contractor that such entry will be in harmony with Landlord's general contractor's work schedule with respect to the Shell Improvements, will grant Tenant a license to have access to the Premises prior to the Shell Improvements being Substantially Completed (defined below) to allow Tenant to do other work required by Tenant to install a portion of the Tenant Improvements and to otherwise make the Premises ready for Tenant's use and occupancy (the "Tenant's Pre-Occupancy Work"). It shall be a condition to the grant by Landlord and continued effectiveness of such license that:

(a) Tenant shall give to Landlord a written request to have such access not less than five (5) business days prior to the date on which such proposed access will commence (the "Access Notice"). The Access Notice shall contain or be accompanied by each of the following items, all in form and substance reasonably acceptable to Landlord: (i) a detailed description of and schedule for Tenant's Pre-Occupancy Work; (ii) the names and addresses of all contractors, subcontractors and material suppliers and all other representatives of Tenant who or which will be entering the Premises on behalf of Tenant to perform Tenant's Pre-Occupancy Work or will be supplying materials for such work, and the approximate number of individuals, itemized by trade, who will be present in the Premises; (iii) copies of all contracts, subcontracts, material purchase orders, plans and specifications pertaining to Tenant's Pre-Occupancy Work; (iv) copies of all licenses and permits required in connection with the performance of Tenant's Pre-Occupancy Work; and (v) certificates of insurance (in amounts satisfactory to Landlord and with the parties identified in, or required by, the Lease named as additional insureds) and instruments of indemnification against all claims, costs, expenses, penalties, fines, and damages which may arise in connection with Tenant's Pre-Occupancy Work.

(b) Such pre-term access by Tenant and Tenant's employees, agents, contractors, consultants, workmen, mechanics, suppliers and invitees shall be subject to reasonable scheduling by Landlord.

(c) Tenant's employees, agents, contractors, consultants, workmen, mechanics, suppliers and invitees shall fully cooperate, work in harmony and not, in any manner, unreasonably interfere with Landlord or Landlord's agents or representatives in performing the work related to substantial completion of the Shell Improvements (the "Work") and any additional work pursuant to approved change orders for the Shell Improvements, Landlord's work in other areas of the Park, or the general operation of the Buildings. If at any time any such person representing Tenant shall not be cooperative or shall otherwise cause or threaten to cause any such disharmony or interference, including, without limitation, labor disharmony, and Tenant fails to immediately institute and maintain corrective actions as directed by Landlord, then Landlord may revoke such license upon twenty-four (24) hours' prior written notice to Tenant.

(d) Any such entry into and occupancy of the Premises or any portion thereof by Tenant or any person or entity working for or on behalf of Tenant shall be deemed to be subject to all of the terms, covenants, conditions and provisions of the Lease, excluding only the covenant to pay Rent. Landlord shall not be liable for any injury, loss or damage that may occur to any of Tenant's Pre-Occupancy Work made in or about the Premises or to any property placed therein prior to the commencement of the term of the Lease, the same being at Tenant's sole risk and liability. Tenant shall be liable to Landlord for any damage to any portion of the Premises, the Work or the additional work related to any approved change orders caused by Tenant or any of Tenant's employees, agents, contractors, consultants, workmen, mechanics, suppliers and invitees. In the event that the performance of Tenant's Pre-Occupancy Work causes extra costs to be incurred by Landlord or requires the use of other Building services, after delivery to Tenant of prior notice that such extra costs are reasonably anticipated by Landlord to be incurred, Tenant shall promptly reimburse Landlord for such extra costs and/or shall pay Landlord for such other Building services at Landlord's standard rates then in effect.

INITIALS:

TENANT: _____

LANDLORD: _____

9. Shell Improvements. Subject to the conditions set forth herein, Landlord, at its sole cost and expense, agrees to construct and install certain shell improvements ("Shell Improvements") on the Lot, including without limitation, the construction of the Buildings substantially in accordance with those certain plans, specifications, and drawings prepared by Cabak Rooney Jordan Associates, dated September 30, 1996 (collectively, the "Shell Construction Drawings"), a copy of which is attached hereto as Schedule 1. In constructing and installing the Shell Improvements Landlord shall not deviate from the Shell Construction Drawings in any substantial and material manner, without first obtaining Tenant's prior consent thereto, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, Tenant shall not have any approval nor consensual rights (and Landlord shall not be required to obtain Tenant's consent therefor) concerning any changes required to be made to the Shell Construction Drawings or the Shell Improvements by (1) the fire department, building or planning department, building inspectors or any other agency or official having jurisdiction over the Buildings, the work related to the Shell Improvements and/or the Shell Improvements, and/or (2) any committee, declarant or other persons or entities having approval or similar rights under any Recorded Matters with respect to the Shell Improvements, and/or (3) Landlord's lender(s) making a construction loan(s) with respect to the Shell Improvements. The Shell Improvements shall not include the Tenant Improvements nor any of Tenant's personal property, equipment, furnishings, trade fixtures or fixtures. All other improvements not specified in this Section 9 shall be considered Tenant Improvements and shall be paid for in accordance with the provisions of Sections 8 and 10 above. Landlord shall use commercially reasonable efforts to cause its general contractor to Substantially Complete (defined below) the Shell Improvements by the scheduled Commencement Date specified in the Basic Lease Information (the "Completion Date"), subject to delays due to (a) acts or events beyond its control including, but not limited to, acts of God, earthquakes, strikes, lockouts, boycotts, casualties, discontinuance of any utility or other service required for performance of the Work, moratoriums, governmental agencies and inclement weather (including, but not limited to, rain delays), (b) the lack of availability or shortage of specialized materials used in the construction of the Tenant Improvements, (c) any matters beyond the control of Landlord, the general contractor or any subcontractors, (d) any changes required by the fire department, building and/or planning department, building inspectors or any other agency having jurisdiction over the Buildings, the Work, the Tenant Improvements and/or the Shell Improvements (except to the extent such changes are directly attributable to Tenant's use or Tenant's specialized tenant improvements, in which event such delays are considered Tenant Delays) (the events and matters set forth in Subsections (a), (b), (c) and (d) are collectively referred to as "Force Majeure Delays"), or (e) any delay attributable to Tenant and/or any of Tenant's Representatives or Tenant's intended use of the Premises (collectively, "Tenant Delays"), including, but not limited to, any of the following described events or occurrences: (i) delays related to changes made or requested by Tenant to the Work, and/or the approved final drawings with respect to the Tenant Improvements; (ii) the failure of Tenant to furnish all or any plans, drawings, specifications, finish details or other information required above; (iii) the failure of Tenant to comply with the requirements of this Exhibit B; (iv) Tenant's requirements for special construction or phasing; (v) any changes required by the fire department, building or planning department, building inspectors or any other agency having jurisdiction over the Buildings, the Work and/or the Tenant Improvements if such changes are directly attributable to Tenant's particular use or Tenant's specialized tenant improvements which do not conform to Landlord's Building Standards; (vi) the performance of any additional work pursuant to a change request which is requested by Tenant; (vii) the performance of work in or about the Premises by any person, firm or corporation employed by or on behalf of Tenant, including, without limitation, any failure to complete or any delay in the completion of such work; or (viii) any and all delays caused by or arising from acts or omissions of Tenant and/or Tenant's Representatives, in any manner whatsoever. Any delays in the construction of the Shell Improvements due to any of the events described above and designated as "Tenant Delays", shall in no way extend or affect the date on which Tenant is required to commence paying Rent under the terms of the Lease. It is the intention of the parties that all of such delays will be considered Tenant Delays for which Tenant shall be wholly and completely responsible for any and all consequences related to such delays, including, without limitation, any costs and expenses attributable to increases in labor or materials. The Shell Improvements shall be deemed substantially complete on the date that the building officials of the applicable governmental agency(s) issues its final approval of the construction of the Shell Improvements whether in the form of the issuance of a final permit, certificate of occupancy or the written approval evidencing its final inspection on the building permits, or the date on which Tenant first takes occupancy of the Premises for purposes other than to perform the Tenant's Pre-Occupancy Work (defined below), or the date that Landlord's general contractor issues a certificate stating that the Shell Improvements have been substantially completed in accordance with the Shell Construction Drawings, whichever first occurs ("Substantial Completion", or "Substantially Completed", or "Substantially Complete"). Subject to the provisions set forth below, if the Work with respect to the Shell Improvements is not deemed to be Substantially Completed on or before the scheduled Completion Date, (A) Landlord agrees to use reasonable efforts to Substantially Complete the Work as soon as practicable thereafter, (B) the Lease shall remain in full force and effect, and (C) Landlord shall not be deemed to be in breach or default of the Lease or this EXHIBIT B as a result thereof and, Landlord shall have no liability to Tenant as a result of any delay in occupancy (whether for damages, abatement of all or any portion of the Rent, or otherwise). Subject to the provisions set forth below, the Commencement Date and the Expiration Date of the term of the Lease (as defined in Section 2 of the Lease) shall be extended commensurately by the amount of time attributable to any Force Majeure Delays which delay the Substantial Completion of the Shell Improvements. In addition to the foregoing and notwithstanding anything to the contrary contained herein or in the Lease, if Landlord does not tender possession to Tenant of

INITIALS :
TENANT : _____
LANDLORD : _____

the Premises with the Shell Improvements Substantially Complete by November 15, 1997 (the "Outside Date") (subject to any Force Majeure Delays or Tenant Delays, in which event the date of November 15, 1997 shall be extended commensurately by the period of time attributable to such delays), then either Tenant or Landlord may terminate this Lease by delivering written notice thereof to the other party no later than the date which is ten (10) business days after the Outside Date, as extended by the period of time attributable to any Force Majeure Delays and/or Tenant Delays. In addition to the foregoing and notwithstanding anything to the contrary contained herein or in the Lease, if Landlord does not tender possession to Tenant of the Premises with the Shell Improvements Substantially Complete by March 1, 1998 (the "Ultimate Outside Date") (subject to any Tenant Delays, in which event the date of March 1, 1998 shall be extended commensurately by the period of time attributable to such delays), then either Tenant or Landlord may terminate this Lease by delivering written notice thereof to the other party no later than the date which is ten (10) business days after the Ultimate Outside Date, as extended by the period of time attributable to any Tenant Delays. If either party fails to timely terminate the Lease as and when provided herein, or if Landlord delivers to Tenant possession of the Premises with the Tenant Improvements Substantially Complete at any time earlier than the Outside Date (as such date may be extended due to Force Majeure Delays or Tenant Delays, as the case may be) or the Ultimate Outside Date (as such date may be extended due to Tenant Delays), as applicable, then upon the occurrence of any such events the foregoing right given to Tenant and Landlord to terminate this Lease as provided herein shall lapse and be null and void upon the earlier occurrence of such event and the Lease shall remain in full force and effect with Tenant and Landlord having no further right to terminate this Lease pursuant to the foregoing provisions. If Landlord does so timely deliver to Tenant possession of the Premises with the Shell Improvements Substantially Complete, Tenant shall promptly deliver written notice to Landlord confirming same. In the event the commencement date and/or the expiration date of this Lease is other than the Commencement Date and/or Expiration Date provided on Page 1 in the Basic Lease Information, as the case may be, Landlord and Tenant shall execute a written amendment to this Lease, substantially in the form of Exhibit F hereto, wherein the parties shall specify the actual commencement date, expiration date, the date on which Tenant is to commence paying Rent and the other matters referred to in Section 1 of the Lease. Landlord's employees, agents, contractors, consultants, workmen, mechanics, suppliers and invitees shall fully cooperate, work in harmony and not, in any manner, unreasonably interfere with Tenant or Tenant's contractors, agents or representatives in performing the work related to substantial completion of the Tenant Improvements and any additional work pursuant to approved change orders for the Tenant Improvements. If at any time any such person representing Landlord shall not be cooperative or shall otherwise cause or threaten to cause any such disharmony or interference, including, without limitation, labor disharmony, and Landlord fails to immediately institute and maintain corrective actions as requested by Tenant, then any delays in Substantially Completing the Tenant Improvements as a result thereof shall be considered to be Landlord Delays.

INITIALS :
TENANT : _____
LANDLORD : _____

**EXHIBIT B-1
CONSTRUCTION INSURANCE REQUIREMENTS**

Before commencing work, the contractor shall procure and maintain at its sole cost and expense until completion and final acceptance of the work, at least the following minimum levels of insurance.

A. Workers' Compensation in statutory amounts and Employers Liability Insurance in the minimum amounts of \$100,000 each accident for bodily injury by accident and \$100,000 each employee for bodily injury by disease with a \$500,000 policy limit, covering each and every worker used in connection with the contract work.

B. Comprehensive General Liability Insurance on an occurrence basis including, but not limited to, protection for Premises/Operations Liability, Broad Form Contractual Liability, Owner's and Contractor's Protective, and Products/Completed Operations Liability*, in the following minimum limits of liability.

Bodily Injury, Property Damage, and Personal Injury Liability \$2,000,000/each occurrence \$3,000,000/aggregate

* Products/Completed Operations Liability Insurance is to be provided for a period of at least one (1) year after completion of work.

Coverage should include protection for Explosion, Collapse and Underground Damage.

C. Comprehensive Automobile Liability Insurance with the following minimum

limits of liability.

Bodily Injury and Property	\$1,000,000/each occurrence
Damage Liability	\$2,000,000/aggregate

This insurance will apply to all owned, non-owned or hired automobiles to be used by the Contractor in the completion of the work.

D. Umbrella Liability Insurance in a minimum amount of five million dollars (\$5,000,000), providing excess coverage on a following-form basis over the Employer's Liability limit in Paragraph A and the liability coverages outlined in Paragraphs B and C.

E. Equipment and Installation coverages in the broadest form available covering Contractor's tools and equipment and material not accepted by Tenant. Tenant will provide Builders Risk Insurance on all accepted and installed materials.

All policies of insurance, duplicates thereof or certificates evidencing coverage shall be delivered to Landlord prior to commencement of any work and shall name Landlord, and its partners and lenders as additional insureds as their interests may appear. All insurance policies shall (1) be issued by a company or companies licensed to be business in the state of California, (2) provide that no cancellation, non-renewal or material modification shall be effective without thirty (30) days prior written notice provided to Landlord, (3) provide no deductible greater than \$15,000 per occurrence, (4) contain a waiver to subrogation clause in favor of Landlord, and its partners and lenders, and (5) comply with the requirements of Sections 12.2, 12.3 and 12.4 of the Lease to the extent such requirements are applicable.

INITIALS:

TENANT: _____

LANDLORD: _____

**EXHIBIT B-2
BUILDING STANDARDS**

OFFICE AREA

DEMISING PARTITION AND CORRIDOR WALLS:

- A. 6" 20-gauge metal studs at 24" O.C. (or as required by code for span) framed full height from finish floor to structure above
- B. One (1) layer 5/8" drywall Type "X" both sides of wall, fire taped only

INTERIOR PARTITIONS:

- A. 3 5/8" 25-gauge metal studs at 24" O.C. to bottom of T-bar ceiling grid approximately 9' - 0' high
- B. Top track to be pre-formed slotted aluminum taped in
- C. One (1) layer 5/8" drywall both sides of wall, taped texture ready for paint
- D. 3 5/8" metal studs including all lateral bracing as required by code

PERIMETER DRYWALL (AT OFFICE AREAS):

- A. One (1) layer 5/8" Type "X" drywall taped texture ready for paint
- B. Provide alternate to texture concrete in lieu of furring walls

COLUMN FURRING:

- A. Furring channel all sides
- B. One (1) layer 5/8" drywall taped texture and ready for paint
- C. Provide deductive alternate for texturing columns where there are no pipes to furred out

ACOUSTICAL CEILINGS:

- A. 2' x 4' standard white T-bar grid system as manufactured by Chicago Metallic or equal
- B. 2' x 4' x 5/8" white, fissured, non-directional acoustical tile to be Cortega as manufactured by Armstrong or equal

PAINTING:

- A. Sheetrock walls to receive two (2) coats of interior latex paint as manufactured by Kelly Moore or equal. Some portions of second coat to be single accent color.
- B. Provide a deductive alternate for not painting warehouse walls

WINDOW COVERING:

- A. 1" aluminum mini-blinds as manufactured by Levelor or equal, color to be selected by Lincoln Property Company
- B. Blinds to be sized to fit window module

VCT:

VCT to be 1/8" x 12" x 12" as manufactured by Armstrong - Excelon Series or equal

LIGHT FIXTURES:

2' x 4' T-bar lay in 3-tube energy efficient fixture with cool white fluorescent tubes with prismatic acrylic lens as manufactured by Lithonia or equal

LIGHT SWITCHES:

- A. Double switching as required by Title 24
- B. Switch assembly to be Leviton, color - Ivory

ELECTRICAL OUTLET:

- A. 110-v duplex outlet in demising or interior partitions only, as manufactured by Leviton, color to be Ivory
- B. Eight (8) outlets per circuit, spacing to meet code (2 per office)

C. Transformers to be a minimum of 20% or over required capacity

D. Contractors to inspect electric room and to include all necessary metering costs

E. No aluminum wiring is acceptable

TELEPHONE OUTLET:

A. One (1) single outlet box in wall with pullwire from outlet box to area above T-bar ceiling per office

B. Cover plate for phone outlets to be included

FIRE SPRINKLERS:

As required by fire codes

TOPSET BASE:

A. 4" rubber base as manufactured by Burke or equal, standard colors only

B. 4" rubber base at VCT areas

TOILET AREAS:

Wet walls to receive marlite up to 48". Floors to receive sheetvinyl and cove base as required by code

CARPET:

Minimum 30 ounce, commercial grade, level loop, UM44-C. Type 1 Class 1. 100% continuous filament. 5-year wear guarantee. Glue down, no pad.

WOOD DOORS:

Shall be 3'-0" x 7'-0" x 1 3/4" (unless otherwise specified) solid core, prefinished birch "Cal-Wood" B-3 or equal if approved by owner

DOOR FRAMES:

Shall be ACI or equal, 3 3/4" or 4 7/8" throat, aluminum, dark bronze anodized, snap-on trim

HARDWARE:

Shall be "Schlage", a lever type "Levon" D series, dark bronze 613 finish, 2 3/4" backset. Closers (where required) shall be Duro X PA X SN-1

INSULATION:

By Title 24 insulation

PLUMBING:

A. Shall comply with all local codes and handicapped code requirements. Fixtures shall be either "American Standard", "Koher" or "Norris". All toilet accessories and grab bars shall be "Bobrick" or equal and approved by owner

B. Plumbing bid shall include 5 gallon minimum, or insta hot with mixer valve electric water heater

TOILET PARTITIONS:

Shall be as manufactured by Fiat, global or equal if approved by owner. Color shall be chosen by tenant

HVAC:

Five (5) year warranty provided on all HVAC compressor units. All penetrations and sleeper supports to be hot mopped to LPC standard. Provide alternate price for electric heat pumps at conditioned spaces. Provide time overlay switch at compressors.

WAREHOUSE AREAS:

Floor - sealed concrete

Fire Extinguishers - 2A 10 BC surface mount by code x by S.F. Lighting - 1x8 strip lighting single tube chain hung 25 ft. Draft stops - by code UBC 198 Edition

Service electrical outlets - HVAC or heaters at tenant cost (400 W metal halide lighting are acceptable in lieu of strip lighting at warehouse minimum 15 F.C.)1

**EXHIBIT C TO LEASE AGREEMENT
RULES & REGULATIONS**

This exhibit, entitled "Rules & Regulations", is and shall constitute EXHIBIT C to that certain Lease Agreement dated December 12, 1996 (the "Lease"), by and between Lincoln-Whitehall Realty (West), L.L.C., a Delaware limited liability company ("Landlord"), and Cisco Systems, Inc., a California corporation ("Tenant"), for the leasing of certain premises located at Fortran Court and Baytech Drive, (Buildings A & B), San Jose, California (the "Premises"). The terms, conditions and provisions of this EXHIBIT C are hereby incorporated into and are made a part of the Lease. Any capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed to such terms as set forth in the Lease.

1. No advertisement, picture or sign of any sort shall be displayed on or outside the Premises or the Buildings without the prior written consent of Landlord. Landlord shall have the right to remove any such unapproved item without notice and at Tenant's expense.
2. Tenant shall not regularly store motor vehicles in designated parking areas after the conclusion of normal daily business activity.
3. Tenant shall not use any method of heating or air conditioning other than that supplied by Landlord without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed.
4. All window coverings installed by Tenant and visible from the outside of the Buildings require the prior written approval of Landlord.
5. Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance or any flammable or combustible materials on or around the Premises, the Buildings or the Park, except as otherwise permitted pursuant to the provisions of Section 29 of the Lease.
6. Tenant shall not alter any lock or install any new locks or bolts on any door at the Premises without the prior consent of Landlord, except any conspicuously designated security areas of Tenant.
7. Intentionally omitted.
8. Tenant shall park motor vehicles in those general parking areas as designated by Landlord except for loading and unloading. During those periods of loading and unloading, Tenant shall not unreasonably interfere with traffic flow within the Park and loading and unloading areas of other tenants.
9. Tenant shall not disturb, solicit or canvas any occupant of the Buildings or Park and shall cooperate to prevent same.
10. No person shall go on the roof without Landlord's permission.
11. Business machines and mechanical equipment belonging to Tenant which cause noise or vibration that may be transmitted to the structure of the Buildings, to such a degree as to be objectionable to Landlord or other Tenants, shall be placed and maintained by Tenant, at Tenant's expense, on vibration eliminators or other devices sufficient to eliminate noise or vibration.
12. All goods, including material used to store goods, delivered to the Premises of Tenant shall be immediately moved into the Premises and shall not be left in parking or receiving areas overnight without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed.
13. Tractor trailers which must be unhooked or parked with dolly wheels beyond the concrete loading areas must use steel plates or wood blocks under the dolly wheels to prevent damage to the asphalt paving surfaces. No parking or storing of such trailers will be permitted in the auto parking areas of the Park or on streets adjacent thereto.
14. Forklifts which operate on asphalt paving areas shall not have solid rubber tires and shall only use tires that do not damage the asphalt.
15. Tenant is responsible for the storage and removal of all trash and refuse. All such trash and refuse shall be contained in suitable receptacles stored behind screened enclosures at locations approved by Landlord.
16. Tenant shall not store or permit the storage or placement of goods, or merchandise or pallets or equipment of any sort in or around the Premises, the Buildings, the Park or any of the Common Areas of the foregoing. No displays or sales of merchandise shall be allowed in the parking lots or other Common Areas.
17. Tenant shall not permit any animals, including, but not limited to, any household pets, to be brought or kept in or about the Premises, the Buildings, the Park or any of the Common Areas of the foregoing.

INITIALS :

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LANDLORD: _____

18. Tenant shall not permit any motor vehicles to be washed on any portion of the Premises or in the Common Areas of the Park, nor shall Tenant permit mechanical work or maintenance of motor vehicles to be performed on any portion of the Premises or in the Common Areas of the Park.

INITIALS:

TENANT: _____

LANDLORD: _____

EXHIBIT E

HAZARDOUS MATERIALS DISCLOSURE CERTIFICATE

Your cooperation in this matter is appreciated. Initially, the information provided by you in this Hazardous Materials Disclosure Certificate is necessary for the Landlord (identified below) to evaluate and finalize a lease agreement with you as tenant. After a lease agreement is signed by you and the Landlord (the "Lease Agreement"), on an annual basis in accordance with the provisions of Section 29 of the signed Lease Agreement, you are to provide an update to the information initially provided by you in this certificate. The information contained in the initial Hazardous Materials Disclosure Certificate and each annual certificate provided by you thereafter will be maintained in confidentiality by Landlord subject to release and disclosure as required by (i) any lenders and owners and their respective environmental consultants, (ii) any prospective purchaser(s) of all or any portion of the property on which the Premises are located, (iii) Landlord to defend itself or its lenders, partners or representatives against any claim or demand, and (iv) any laws, rules, regulations, orders, decrees, or ordinances, including, without limitation, court orders or subpoenas. Any and all capitalized terms used herein, which are not otherwise defined herein, shall have the same meaning ascribed to such term in the signed Lease Agreement. Any questions regarding this certificate should be directed to, and when completed, the certificate should be delivered to:

Landlord: _____ c/o Lincoln Property Company Management Services, Inc. 101 Lincoln Centre Drive, Fourth Floor Foster City, California 94404 Attn: Phone: (415) 571-2200

Name of (Prospective) Tenant: _____

Mailing Address: _____

Contact Person, Title and Telephone Number(s): _____

Contact Person for Hazardous Waste Materials Management and Manifests and Telephone Number(s):

Address of (Prospective) Premises: _____

Length of (Prospective) initial Term: _____

1. GENERAL INFORMATION:

Describe the initial proposed operations to take place in, on, or about the Premises, including, without limitation, principal products processed, manufactured or assembled services and activities to be provided or otherwise conducted. Existing tenants should describe any proposed changes to on-going operations.



2. USE, STORAGE AND DISPOSAL OF HAZARDOUS MATERIALS

2.1 Will any Hazardous Materials be used, generated, stored or disposed of in, on or about the Premises? Existing tenants should describe any Hazardous Materials which continue to be used, generated, stored or disposed of in, on or about the Premises.

Wastes	Yes []	No []
Chemical Products	Yes []	No []
Other	Yes []	No []

If Yes is marked, please explain: _____

2.2 If Yes is marked in Section 2.1, attach a list of any Hazardous Materials to be used, generated, stored or disposed of in, on or about the Premises, including the applicable hazard class and an estimate of the quantities of such Hazardous Materials at any given time; estimated annual throughput; the proposed location(s) and method of storage (excluding nominal amounts of ordinary household cleaners and janitorial supplies which are not regulated by any Environmental Laws); and the proposed location(s) and method of disposal for each Hazardous Material, including, the estimated frequency, and the proposed contractors or subcontractors. Existing tenants should attach a list setting forth the information requested above and such list should include actual data from on-going operations and the identification of any variations in such information from the prior year's certificate.

3. STORAGE TANKS AND SUMPS

3.1 Is any above or below ground storage of gasoline, diesel, petroleum, or other Hazardous Materials in tanks or sumps proposed in, on or about the Premises? Existing tenants should describe any such actual or proposed activities.

Yes [] No []

If yes, please explain: _____

4. WASTE MANAGEMENT

4.1 Has your company been issued an EPA Hazardous Waste Generator I.D. Number? Existing tenants should describe any additional identification numbers issued since the previous certificate.

Yes [] No []

4.2 Has your company filed a biennial or quarterly reports as a hazardous waste generator? Existing tenants should describe any new reports filed.

Yes [] No []

If yes, attach a copy of the most recent report filed.

5. WASTEWATER TREATMENT AND DISCHARGE

5.1 Will your company discharge wastewater or other wastes to:

____ storm drain? ____ sewer? ____ surface water? ____ no wastewater or other wastes discharged.

Existing tenants should indicate any actual discharges. If so, describe the nature of any proposed or actual discharge(s).

5.2 Will any such wastewater or waste be treated before discharge?

Yes [] No []

If yes, describe the type of treatment proposed to be conducted. Existing tenants should describe the actual treatment conducted.

6. AIR DISCHARGES

6.1 Do you plan for any air filtration systems or stacks to be used in your company's operations in, on or about the Premises that will discharge into the air; and will such air emissions be monitored? Existing tenants should indicate whether or not there are any such air filtration systems or stacks in use in, on or about the Premises which discharge into the air and whether such air emissions are being monitored.

Yes [] No []

If yes, please describe: _____

6.2 Do you propose to operate any of the following types of equipment, or any other equipment requiring an air emissions permit? Existing tenants should specify any such equipment being operated in, on or about the Premises.

- Spray booth(s)
- Dip tank(s)
- Drying oven(s)
- Incinerator(s)
- Other (Please describe)
- No Equipment Requiring Air Permits

If yes, please describe:

7. HAZARDOUS MATERIALS DISCLOSURES

7.1 Has your company prepared or will it be required to prepare a Hazardous Materials management plan ("Management Plan") pursuant to Fire Department or other governmental or regulatory agencies' requirements? Existing tenants should indicate whether or not a Management Plan is required and has been prepared.

Yes [] No []

If yes, attach a copy of the Management Plan. Existing tenants should attach a copy of any required updates to the Management Plan.

7.2 Are any of the Hazardous Materials, and in particular chemicals, proposed to be used in your operations in, on or about the Premises regulated under Proposition 65? Existing tenants should indicate whether or not there are any new Hazardous Materials being so used which are regulated under Proposition 65.

Yes [] No []

If yes, please explain: _____

8. ENFORCEMENT ACTIONS AND COMPLAINTS

8.1 With respect to Hazardous Materials or Environmental Laws, has your company ever been subject to any agency enforcement actions, administrative orders, or consent decrees or has your company received requests for information, notice or demand letters, or any other inquiries regarding its operations? Existing tenants should indicate whether or not any such actions, orders or decrees have been, or are in the process of being, undertaken or if any such requests have been received.

Yes [] No []

If yes, describe the actions, orders or decrees and any continuing compliance obligations imposed as a result of these actions, orders or decrees and also describe any requests, notices or demands, and attach a copy of all such documents. Existing tenants should describe and attach a copy of any new actions, orders, decrees, requests, notices or demands not already delivered

to Landlord pursuant to the provisions of Section 29 of the signed Lease Agreement.

8.2 Have there ever been, or are there now pending, any lawsuits against your company regarding any environmental or health and safety concerns?

Yes No

If yes, describe any such lawsuits and attach copies of the complaint(s), cross-complaint(s), pleadings and all other documents related thereto as requested by Landlord. Existing tenants should describe and attach a copy of any new complaint(s), cross-complaint(s), pleadings and other related documents not already delivered to Landlord pursuant to the provisions of Section 29 of the signed Lease Agreement.

8.3 Have there been any problems or complaints from adjacent tenants, owners or other neighbors at your company's current facility with regard to environmental or health and safety concerns? Existing tenants should indicate whether or not there have been any such problems or complaints from adjacent tenants, owners or other neighbors at, about or near the Premises.

Yes No

If yes, please describe. Existing tenants should describe any such problems or complaints not already disclosed to Landlord under the provisions of the signed Lease Agreement.

9. PERMITS AND LICENSES

9.1 Attach copies of all Hazardous Materials permits and licenses including a Transporter Permit number issued to your company with respect to its proposed operations in, on or about the Premises, including, without limitation, any wastewater discharge permits, air emissions permits, and use permits or approvals. Existing tenants should attach copies of any new permits and licenses as well as any renewals of permits or licenses previously issued.

The undersigned hereby acknowledges and agrees that (A) this Hazardous Materials Disclosure Certificate is being delivered in connection with, and as required by, Landlord in connection with the evaluation and finalization of a Lease Agreement and will be attached thereto as an exhibit; (B) that this Hazardous Materials Disclosure Certificate is being delivered in accordance with, and as required by, the provisions of Section 29 of the Lease Agreement; and (C) that Tenant shall have and retain full and complete responsibility and liability with respect to any of the Hazardous Materials disclosed in the HazMat Certificate notwithstanding Landlord's/Tenant's receipt and/or approval of such certificate. Tenant further agrees that none of the following described acts or events shall be construed or otherwise interpreted as either (a) excusing, diminishing or otherwise limiting Tenant from the requirement to fully and faithfully perform its obligations under the Lease with respect to Hazardous Materials, including, without limitation, Tenant's indemnification of the Indemnitees and compliance with all Environmental Laws, or (b) imposing upon Landlord, directly or indirectly, any duty or liability with respect to any such Hazardous Materials, including, without limitation, any duty on Landlord to investigate or otherwise verify the accuracy of the representations and statements made therein or to ensure that Tenant is in compliance with all Environmental Laws; (i) the delivery of such certificate to Landlord and/or Landlord's acceptance of such certificate, (ii) Landlord's review and approval of such certificate, (iii) Landlord's failure to obtain such certificate from Tenant at any time, or (iv) Landlord's actual or constructive knowledge of the types and quantities of Hazardous Materials being used, stored, generated, disposed of or transported on or about the Premises by Tenant or Tenant's Representatives. Notwithstanding the foregoing

or anything to the contrary contained herein, the undersigned acknowledges and agrees that Landlord and its partners, lenders and representatives may, and will, rely upon the statements, representations, warranties, and certifications made herein and the truthfulness thereof in entering into the Lease Agreement and the continuance thereof throughout the term, and any renewals thereof, of the Lease Agreement.

I (print name) _____, acting with full authority to bind the (proposed) Tenant and on behalf of the (proposed) Tenant, certify, represent and warrant that the information contained in this certificate is true and correct.

(PROSPECTIVE) TENANT:

By: _____

Title: _____

Date: _____

INITIALS:

TENANT: _____

LANDLORD: _____

EXHIBIT F

FIRST AMENDMENT TO LEASE AGREEMENT

CHANGE OF COMMENCEMENT DATE

This First Amendment to Lease Agreement (the "Amendment") is made and entered into as of _____, by and between _____ ("LANDLORD"), AND _____ ("TENANT"), with reference to the following facts:

RECITALS

A. Landlord and Tenant have entered into that certain Lease Agreement dated _____ (the "Lease"), for the leasing of certain premises located at _____, California (the "Premises") as such Premises are more fully described in the Lease.

B. Landlord and Tenant wish to amend the Commencement Date of the Lease.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. The Commencement Date of the Lease shall be _____.

2. The last day of the Term of the Lease (the "Expiration Date") shall be _____.

3. The dates on which the Base Rent will be adjusted are:

for the period _____ to _____ the monthly Base Rent shall be \$ _____;

for the period _____ to _____ the monthly Base Rent shall be \$ _____; and

for the period _____ to _____ the monthly Base Rent shall be \$ _____.

4. Effect of Amendment: Except as modified herein, the terms and conditions of the Lease shall remain unmodified and continue in full force and effect. In the event of any conflict between the terms and conditions of the Lease and this Amendment, the terms and conditions of this Amendment shall prevail.

5. Definitions: Unless otherwise defined in this Amendment, all terms not defined in this Amendment shall have the meaning set forth in the Lease.

6. Authority: Subject to the provisions of the Lease, this Amendment shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, legal representatives, successors and assigns. Each party hereto and the persons signing below warrant that the person signing below on such party's behalf is authorized to do so and to bind such party to the terms of this Amendment.

INITIALS:
TENANT: _____
LANDLORD: _____

7. The terms and provisions of the Lease are hereby incorporated in this Amendment.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date and year first above written.

[PROPERTY MANAGER: PLEASE PROVIDE TENANT INFORMATION AND WORD PROCESSING WILL COMPLETE THE SIGNATURE BLOCK]

INITIALS :

TENANT : _____

LANDLORD : _____

EXHIBIT G

HAZARDOUS MATERIALS DISCLOSURE CERTIFICATE

Your cooperation in this matter is appreciated. Initially, the information provided by you in this Hazardous Materials Disclosure Certificate is necessary for the Landlord (identified below) to evaluate and finalize a lease agreement with you as tenant. After a lease agreement is signed by you and the Landlord (the "Lease Agreement"), on an annual basis in accordance with the provisions of Section 29 of the signed Lease Agreement, you are to provide an update to the information initially provided by you in this certificate. The information contained in the initial Hazardous Materials Disclosure Certificate and each annual certificate provided by you thereafter will be maintained in confidentiality by Landlord subject to release and disclosure as required by (i) any lenders and owners and their respective environmental consultants, (ii) any prospective purchaser(s) of all or any portion of the property on which the Premises are located, (iii) Landlord to defend itself or its lenders, partners or representatives against any claim or demand, and (iv) any laws, rules, regulations, orders, decrees, or ordinances, including, without limitation, court orders or subpoenas. Any and all capitalized terms used herein, which are not otherwise defined herein, shall have the same meaning ascribed to such term in the signed Lease Agreement. Any questions regarding this certificate should be directed to, and when completed, the certificate should be delivered to:

Landlord: _____ c/o Lincoln Property Company Management Services, Inc. 101 Lincoln Centre Drive, Fourth Floor Foster City, California 94404 Attn: Phone: (415) 571-2200

Name of (Prospective) Tenant: _____

Mailing Address: _____

Contact Person, Title and Telephone Number(s): _____

Contact Person for Hazardous Waste Materials Management and Manifests and Telephone Number(s):

Address of (Prospective) Premises: _____

Length of (Prospective) initial Term: _____

1. GENERAL INFORMATION:

Describe the initial proposed operations to take place in, on, or about the Premises, including, without limitation, principal products processed, manufactured or assembled services and activities to be provided or otherwise conducted. Existing tenants should describe any proposed changes to on-going operations.



2. USE, STORAGE AND DISPOSAL OF HAZARDOUS MATERIALS

2.1 Will any Hazardous Materials be used, generated, stored or disposed of in, on or about the Premises? Existing tenants should describe any Hazardous Materials which continue to be used, generated, stored or disposed of in, on or about the Premises.

Wastes	Yes []	No []
Chemical Products	Yes []	No []
Other	Yes []	No []

If Yes is marked, please explain: _____

2.2 If Yes is marked in Section 2.1, attach a list of any Hazardous Materials to be used, generated, stored or disposed of in, on or about the Premises, including the applicable hazard class and an estimate of the quantities of such Hazardous Materials at any given time; estimated annual throughput; the proposed location(s) and method of storage (excluding nominal amounts of ordinary household cleaners and janitorial supplies which are not regulated by any Environmental Laws); and the proposed location(s) and method of disposal for each Hazardous Material, including, the estimated frequency, and the proposed contractors or subcontractors. Existing tenants should attach a list setting forth the information requested above and such list should include actual data from on-going operations and the identification of any variations in such information from the prior year's certificate.

3. STORAGE TANKS AND SUMPS

3.1 Is any above or below ground storage of gasoline, diesel, petroleum, or other Hazardous Materials in tanks or sumps proposed in, on or about the Premises? Existing tenants should describe any such actual or proposed activities.

Yes [] No []

If yes, please explain: _____

4. WASTE MANAGEMENT

4.1 Has your company been issued an EPA Hazardous Waste Generator I.D. Number? Existing tenants should describe any additional identification numbers issued since the previous certificate.

Yes [] No []

4.2 Has your company filed a biennial or quarterly reports as a hazardous waste generator? Existing tenants should describe any new reports filed.

Yes [] No []

If yes, attach a copy of the most recent report filed.

5. WASTEWATER TREATMENT AND DISCHARGE

5.1 Will your company discharge wastewater or other wastes to:

____ storm drain? ____ sewer? ____ surface water? ____ no wastewater or other wastes discharged.

Existing tenants should indicate any actual discharges. If so, describe the nature of any proposed or actual discharge(s).

5.2 Will any such wastewater or waste be treated before discharge?

Yes [] No []

If yes, describe the type of treatment proposed to be conducted. Existing tenants should describe the actual treatment conducted.

6. AIR DISCHARGES

6.1 Do you plan for any air filtration systems or stacks to be used in your company's operations in, on or about the Premises that will discharge into the air; and will such air emissions be monitored? Existing tenants should indicate whether or not there are any such air filtration systems or stacks in use in, on or about the Premises which discharge into the air and whether such air emissions are being monitored.

Yes [] No []

If yes, please describe: _____

6.2 Do you propose to operate any of the following types of equipment, or any other equipment requiring an air emissions permit? Existing tenants should specify any such equipment being operated in, on or about the Premises.

- Spray booth(s)
- Dip tank(s)
- Drying oven(s)
- Incinerator(s)
- Other (Please describe)
- No Equipment Requiring Air Permits

If yes, please describe:

7. HAZARDOUS MATERIALS DISCLOSURES

7.1 Has your company prepared or will it be required to prepare a Hazardous Materials management plan ("Management Plan") pursuant to Fire Department or other governmental or regulatory agencies' requirements? Existing tenants should indicate whether or not a Management Plan is required and has been prepared.

Yes [] No []

If yes, attach a copy of the Management Plan. Existing tenants should attach a copy of any required updates to the Management Plan.

7.2 Are any of the Hazardous Materials, and in particular chemicals, proposed to be used in your operations in, on or about the Premises regulated under Proposition 65? Existing tenants should indicate whether or not there are any new Hazardous Materials being so used which are regulated under Proposition 65.

Yes [] No []

If yes, please explain: _____

8. ENFORCEMENT ACTIONS AND COMPLAINTS

8.1 With respect to Hazardous Materials or Environmental Laws, has your company ever been subject to any agency enforcement actions, administrative orders, or consent decrees or has your company received requests for information, notice or demand letters, or any other inquiries regarding its operations? Existing tenants should indicate whether or not any such actions, orders or decrees have been, or are in the process of being, undertaken or if any such requests have been received.

Yes [] No []

If yes, describe the actions, orders or decrees and any continuing compliance obligations imposed as a result of these actions, orders or decrees and also describe any requests, notices or demands, and attach a copy of all such documents. Existing tenants should describe and attach a copy of any new actions, orders, decrees, requests, notices or demands not already delivered

to Landlord pursuant to the provisions of Section 29 of the signed Lease Agreement.

8.2 Have there ever been, or are there now pending, any lawsuits against your company regarding any environmental or health and safety concerns?

Yes No

If yes, describe any such lawsuits and attach copies of the complaint(s), cross-complaint(s), pleadings and all other documents related thereto as requested by Landlord. Existing tenants should describe and attach a copy of any new complaint(s), cross-complaint(s), pleadings and other related documents not already delivered to Landlord pursuant to the provisions of Section 29 of the signed Lease Agreement.

8.3 Have there been any problems or complaints from adjacent tenants, owners or other neighbors at your company's current facility with regard to environmental or health and safety concerns? Existing tenants should indicate whether or not there have been any such problems or complaints from adjacent tenants, owners or other neighbors at, about or near the Premises.

Yes No

If yes, please describe. Existing tenants should describe any such problems or complaints not already disclosed to Landlord under the provisions of the signed Lease Agreement.

9. PERMITS AND LICENSES

9.1 Attach copies of all Hazardous Materials permits and licenses including a Transporter Permit number issued to your company with respect to its proposed operations in, on or about the Premises, including, without limitation, any wastewater discharge permits, air emissions permits, and use permits or approvals. Existing tenants should attach copies of any new permits and licenses as well as any renewals of permits or licenses previously issued.

The undersigned hereby acknowledges and agrees that (A) this Hazardous Materials Disclosure Certificate is being delivered in connection with, and as required by, Landlord in connection with the evaluation and finalization of a Lease Agreement and will be attached thereto as an exhibit; (B) that this Hazardous Materials Disclosure Certificate is being delivered in accordance with, and as required by, the provisions of Section 29 of the Lease Agreement; and (C) that Tenant shall have and retain full and complete responsibility and liability with respect to any of the Hazardous Materials disclosed in the HazMat Certificate notwithstanding Landlord's/Tenant's receipt and/or approval of such certificate. Tenant further agrees that none of the following described acts or events shall be construed or otherwise interpreted as either (a) excusing, diminishing or otherwise limiting Tenant from the requirement to fully and faithfully perform its obligations under the Lease with respect to Hazardous Materials, including, without limitation, Tenant's indemnification of the Indemnitees and compliance with all Environmental Laws, or (b) imposing upon Landlord, directly or indirectly, any duty or liability with respect to any such Hazardous Materials, including, without limitation, any duty on Landlord to investigate or otherwise verify the accuracy of the representations and statements made therein or to ensure that Tenant is in compliance with all Environmental Laws; (i) the delivery of such certificate to Landlord and/or Landlord's acceptance of such certificate, (ii) Landlord's review and approval of such certificate, (iii) Landlord's failure to obtain such certificate from Tenant at any time, or (iv) Landlord's actual or constructive knowledge of the types and quantities of Hazardous Materials being used, stored, generated, disposed of or transported on or about the Premises by Tenant or Tenant's Representatives. Notwithstanding the foregoing

or anything to the contrary contained herein, the undersigned acknowledges and agrees that Landlord and its partners, lenders and representatives may, and will, rely upon the statements, representations, warranties, and certifications made herein and the truthfulness thereof in entering into the Lease Agreement and the continuance thereof throughout the term, and any renewals thereof, of the Lease Agreement.

I (print name) _____, acting with full authority to bind the (proposed) Tenant and on behalf of the (proposed) Tenant, certify, represent and warrant that the information contained in this certificate is true and correct.

(PROSPECTIVE) TENANT:

By: _____

Title: _____

Date: _____

INITIALS:

TENANT: _____

LANDLORD: _____

**ADDENDUM 1
FIRST OPTION TO EXTEND THE LEASE**

This Addendum 1 is incorporated as a part of that certain Lease Agreement, dated December 12, 1996 (the "Lease"), by and between Lincoln-Whitehall Realty (West), L.L.C., a Delaware limited liability company ("Landlord"), and Cisco Systems, Inc., a California corporation ("Tenant"), of those certain premises located at Fortran Court and Baytech Drive (Buildings A & B) (the "Premises"). Any capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed to such terms as set forth in the Lease.

1. **GRANT OF EXTENSION OPTION.** Subject to the provisions of Sections 5 and 6 hereinbelow, if Tenant has not at any time been in default of its obligations beyond applicable cure periods more than three (3) times in any twelve-month period ("Chronic Default"), or at the time of Tenant's exercise of this option, is currently not, in default in the performance of any of its obligations under this Lease beyond applicable cure periods, and contingent upon review and approval of Tenant's then current financial condition by Landlord [which financial condition shall be deemed to be acceptable to Landlord so long as Tenant, at the time of exercise of this option and for the prior twelve month period of time prior to Tenant's exercise of this option, has a net worth of at least One Hundred Million Dollars (\$100,000,000.00)], Tenant shall have the right at its option (the "First Option") to extend the initial term of the Lease for an additional period of one (1) year (the "First Extended Term").

2. **TENANT'S FIRST OPTION NOTICE.** If Landlord does not receive written notice from Tenant of its exercise of this First Option on a date which is not more than five hundred forty (540) days nor less than three hundred sixty (360) days prior to the end of the initial term of the Lease (the "First Option Notice"), all rights of Tenant in, to and under this First Option shall automatically lapse and terminate and shall be of no further force or effect. Time is of the essence herein.

3. **ESTABLISHING THE MONTHLY BASE RENT FOR THE FIRST EXTENDED TERM.** In the event Tenant duly exercises its rights under this First Option, the monthly Base Rent payable by Tenant to Landlord during the First Extended Term shall be one hundred seventy-one thousand four hundred eighteen and 50/100 dollars (\$171,418.50). If Tenant duly exercises this First Option in accordance with the terms outlined above, Landlord and Tenant shall immediately execute, at Landlord's sole option, either the standard lease agreement then in use by Landlord, or an amendment to this Lease. Such new lease agreement or amendment, as the case may be, shall set forth among other things, the monthly Base Rent quoted above for the First Extended Term and the actual commencement date and expiration date of the First Extended Term. Tenant shall have no other right to extend the initial term of the Lease under this Addendum 1 unless Landlord and Tenant otherwise agree in writing.

4. **CONDITION OF PREMISES AND BROKERAGE COMMISSIONS FOR THE FIRST EXTENDED TERM.** If Tenant duly exercises this First Option in accordance with the terms contained herein, the following shall apply: (1) Tenant shall accept the Premises in its then "As-Is" condition and, accordingly, Landlord shall not be required to perform nor install any additional improvements to the Premises; and (2) Tenant hereby agrees that it will be solely responsible for any and all brokerage commissions and finder's fees payable to any broker except for Landlord's broker in connection with the First Option described herein, and Tenant hereby further agrees that Landlord shall in no event or circumstance be responsible for the payment of any such commissions and fees.

5. **LIMITATIONS ON, AND CONDITIONS TO, FIRST EXTENSION OPTION.** This First Option is personal to Tenant and except for a Related Entity may not be assigned, voluntarily or

INITIALS:

TENANT: _____

LANDLORD: _____

involuntarily, separate from or as part of the Lease, unless Landlord otherwise expressly consents in writing to such assignment. At Landlord's option, all rights of Tenant under this First Option shall terminate and be of no force or effect if any of the following individual events occur or any combination thereof occur: (1) Tenant or the Related Entity, as applicable, has been in Chronic Default at any time during the initial term of the Lease, or at the time of exercise of the First Option is then currently in default of any provision of the Lease beyond applicable cure periods; and/or (2) Tenant has assigned its rights and obligations under all or part of the Lease to any party or entity other than a Related Entity, or Tenant has subleased all or part of the Premises to any party or entity other than a Related Entity, unless Landlord otherwise expressly consents in writing to such assignment or sublease; and/or (3) Tenant's or the Related Entity's (as applicable) financial condition is unacceptable to Landlord at the time the First Option Notice is delivered to Landlord [which financial condition shall be deemed to be acceptable to Landlord so long as Tenant or the Related Entity, as applicable, at the time of exercise of this First Option and for the prior twelve month period of time prior to delivery of the First Option Notice, has a net worth of at least One Hundred Million Dollars (\$100,000,000.00)]; and/or (4) Tenant or the Related Entity (as applicable) has failed to exercise this First Option in a timely manner and in strict accordance with the provisions of this Addendum 1; and/or (5) Tenant, a Related Entity, or a third party subtenant or assignee for which Landlord has expressly consented, as the case may be, no longer has possession of all or any part of the Premises under the Lease, or if the Lease has been terminated earlier, pursuant to the terms of the Lease.

6. RECAPTURE AND EXCESS SUBLEASE RENTAL OR ASSIGNMENT CONSIDERATION. Notwithstanding anything to the contrary contained in the Lease or herein, if

(I) the Term of the Second Lease has expired or the Second Lease has been earlier terminated for any reason whatsoever, in whole or in part, and (II) during the First Extended Term Tenant proposes to sublease or assign this Lease to a party other than a Related Entity, then for the time period during which there is any vacancy in Building C and/or Building D (as referred to in the Second Lease) Landlord shall have the right, to be exercised by giving written notice to Tenant, to either (1) recapture the space described in the proposed sublease or assignment, or (2) consent to such proposed sublease or assignment, in which event Tenant shall pay Landlord monthly, as Additional Rent, at the same time as the monthly installments of Rent are payable hereunder, fifty percent (50%) of the excess of each such payment of rent or other consideration in excess of the Rent called for hereunder, after deduction of the actual brokerage commission (if any) paid by Tenant in connection with such proposed sublease or assignment, where the rent or other consideration provided for in the proposed sublease or assignment either initially or over the term of the sublease or assignment exceeds the Rent or pro rata portion of the Rent, as the case may be, for such space reserved in the Lease. If such recapture notice is given, it shall serve to terminate this Lease with respect to the proposed sublease or assignment space, or, if the proposed sublease or assignment space covers all the Premises for the First Extended Term, it shall serve to terminate the entire term of this Lease in either case, as of the Proposed Effective Date, with respect to such space.

INITIALS :

TENANT : _____

LANDLORD : _____

ADDENDUM 2
SECOND OPTION TO EXTEND THE LEASE

This Addendum 2 is incorporated as a part of that certain Lease Agreement, dated December 12, 1996 (the "Lease"), by and between Lincoln-Whitehall Realty (West), L.L.C., a Delaware limited liability company ("Landlord"), and Cisco Systems, Inc., a California corporation ("Tenant"), of those certain premises located at Fortran Court and Baytech Drive (Buildings A & B) (the "Premises"). Any capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed to such terms as set forth in the Lease.

1. **GRANT OF EXTENSION OPTION.** Subject to the provisions of Sections 5 and 6 hereinbelow, if (i) Tenant has not at any time been in Chronic Default, or at the time of Tenant's exercise of this Second Option, is currently not, in default in the performance of any of its obligations under this Lease beyond any applicable cure periods, (ii) Tenant has duly exercised the First Option in accordance with the provisions of Addendum 1 to the Lease, and (iii) contingent upon review and approval of Tenant's then current financial condition by Landlord [which financial condition shall be deemed to be acceptable to Landlord so long as Tenant, at the time of exercise of this option and for the prior twelve month period of time prior to Tenant's exercise of this Second Option, has a net worth of at least One Hundred Million Dollars (\$100,000,000.00)], Tenant shall have the right at its option (the "Second Option") to further extend the term of the Lease for an additional one (1) year period (the "Second Extended Term").

2. **TENANT'S SECOND OPTION NOTICE.** If Landlord does not receive written notice from Tenant of its exercise of this Second Option on a date which is not more than five hundred forty (540) days nor less than three hundred sixty (360) days prior to the end of the First Extended Term of the Lease (the "Second Option Notice"), all rights of Tenant in, to and under this Second Option shall automatically lapse and terminate and shall be of no further force or effect. Time is of the essence herein.

3. **ESTABLISHING THE MONTHLY BASE RENT FOR THE SECOND EXTENDED TERM.** In the event Tenant duly exercises its rights under this Second Option, the monthly Base Rent payable by Tenant to Landlord during the Second Extended Term shall be one hundred seventy-six thousand six hundred thirteen and 00/100 dollars (\$176,613.00). If Tenant duly exercises this Second Option in accordance with the terms outlined above, Landlord and Tenant shall immediately execute, at Landlord's sole option, either the standard lease agreement then in use by Landlord, or an amendment to this Lease. Such new lease agreement or amendment, as the case may be, shall set forth among other things, the monthly Base Rent quoted above for the Second Extended Term and the actual commencement date and expiration date of the Second Extended Term. Tenant shall have no other right to extend the then applicable term of the Lease under this Addendum 2 unless Landlord and Tenant otherwise agree in writing.

4. **CONDITION OF PREMISES AND BROKERAGE COMMISSIONS FOR THE SECOND EXTENDED TERM.** If Tenant duly exercises this Second Option in accordance with the terms contained herein: (1) Tenant shall accept the Premises in its then "As-Is" condition and, accordingly, Landlord shall not be required to perform nor install any additional improvements to the Premises; and (2) Tenant hereby agrees that it will be solely responsible for any and all brokerage commissions and finder's fees payable to any broker except for Landlord's broker in connection with the Second Option described herein, and Tenant hereby further agrees that Landlord shall in no event or circumstance be responsible for the payment of any such commissions and fees.

INITIALS:

TENANT: _____

LANDLORD: _____

5. LIMITATIONS ON, AND CONDITIONS TO, SECOND EXTENSION OPTION. This Second Option is personal to Tenant and except for a Related Entity may not be assigned, voluntarily or involuntarily, separate from or as part of the Lease, unless Landlord otherwise expressly consents in writing to such assignment. At Landlord's option, all rights of Tenant under this First Option shall terminate and be of no force or effect if any of the following individual events occur or any combination thereof occur: (1) Tenant or the Related Entity, as applicable, has been in Chronic Default at any time during the initial term or First Extended Term of the Lease, or at the time of exercise of the Second Option is then currently in default of any provision of the Lease beyond applicable cure periods; and/or (2) Tenant has assigned its rights and obligations under all or part of the Lease to any party or entity other than a Related Entity, or Tenant has subleased all or part of the Premises to any party or entity other than a Related Entity, unless Landlord otherwise expressly consents in writing to such assignment or sublease; and/or (3) Tenant's or the Related Entity's (as applicable) financial condition is unacceptable to Landlord at the time the Second Option Notice is delivered to Landlord [which financial condition shall be deemed to be acceptable to Landlord so long as Tenant or the Related Entity, as applicable, at the time of exercise of this Second Option and for the prior twelve month period of time prior to delivery of the Second Option Notice, has a net worth of at least One Hundred Million Dollars (\$100,000,000.00)]; and/or (4) Tenant or the Related Entity, as applicable, has failed to exercise the First Option in a timely manner in strict accordance with the provisions of Addendum 1 to the Lease; (5) Tenant or the Related Entity (as applicable) has failed to exercise this Second Option in a timely manner and in strict accordance with the provisions of this Addendum 2; and/or (6) Tenant, a Related Entity, or a third party subtenant or assignee for which Landlord has expressly consented, as the case may be, no longer has possession of all or any part of the Premises under the Lease, or if the Lease has been terminated earlier, pursuant to the terms of the Lease.

6. RECAPTURE AND EXCESS SUBLEASE RENTAL OR ASSIGNMENT CONSIDERATION. Notwithstanding anything to the contrary contained in the Lease or herein, if

(I) the Term of the Second Lease has expired or the Second Lease has been earlier terminated for any reason whatsoever, in whole or in part, and (II) during the Second Extended Term Tenant proposes to sublease or assign this Lease to a party other than a Related Entity, then for the time period during which there is any vacancy in Building C and/or Building D (as referred to in the Second Lease) Landlord shall have the right, to be exercised by giving written notice to Tenant, to either (1) recapture the space described in the proposed sublease or assignment, or (2) consent to such proposed sublease or assignment, in which event Tenant shall pay Landlord monthly, as Additional Rent, at the same time as the monthly installments of Rent are payable hereunder, fifty percent (50%) of the excess of each such payment of rent or other consideration in excess of the Rent called for hereunder, after deduction of the actual brokerage commission (if any) paid by Tenant in connection with such proposed sublease or assignment, where the rent or other consideration provided for in the proposed sublease or assignment either initially or over the term of the sublease or assignment exceeds the Rent or pro rata portion of the Rent, as the case may be, for such space reserved in the Lease. If such recapture notice is given, it shall serve to terminate this Lease with respect to the proposed sublease or assignment space, or, if the proposed sublease or assignment space covers all the Premises for the Second Extended Term, it shall serve to terminate the entire term of this Lease in either case, as of the Proposed Effective Date, with respect to such space.

INITIALS:
TENANT: _____
LANDLORD: _____

EXHIBIT 10.51

**LEASE AGREEMENT
(NNN)**

BASIC LEASE INFORMATION

LEASE DATE: December 18, 1996

LANDLORD: Lincoln-Whitehall Realty (West), L.L.C.,
a Delaware limited liability company

LANDLORD'S ADDRESS: c/o Lincoln Property Company Management Services, Inc.
101 Lincoln Centre Drive, Fourth Floor
Foster City, California 94404-1167

TENANT: Cisco Systems, Inc., a California corporation

TENANT'S ADDRESS: 170 W. Tasman Drive
San Jose, California 95124
Attention: Chris Hampton, Director,
Real Estate Worldwide

PREMISES: Approximately 84,935 rentable square feet as shown on
Exhibit A

PREMISES ADDRESSES: Building C: 130 Baytech Drive, San Jose,
California 95134
Building D: 140 Baytech Drive, San Jose,
California 95134

BUILDINGS (C & D): Approximately 84,935
rentable square feet

LOT (PARK'S TAX PARCEL): APN 015-30-093

PARK (LINCOLN BAY TECH PARK): Approximately 188,825
rentable square feet

TERM: July 1, 1997 ("Commencement Date"), through June 30,
2001 ("Expiration Date"), subject to the
provisions of Section 2 hereof.

BASE RENT (Paragraph 3): One hundred twenty-three
thousand one hundred fifty-five and
75/100 dollars (\$123,155.75) per month
(\$1.45 per rentable square foot)
commencing on the Commencement Date
through June 30, 1998.

ADJUSTMENTS TO BASE RENT: Effective July 1, 1998, Base Rent shall increase to
\$127,402.50 per month (\$1.50 per rentable square
foot).

Effective July 1, 1999, Base Rent shall
increase to \$131,649.25 per month (\$1.55
per rentable square foot).

Effective July 1, 2000, Base Rent shall increase to
\$135,896.00 per month (\$1.60 per rentable square
foot).

SECURITY DEPOSIT
(Paragraph 4): Waived

*TENANT'S SHARE OF OPERATING EXPENSES (Paragraph 6.1): 45% of the Park *TENANT'S SHARE OF TAX EXPENSES (Paragraph 6.2): 45% of the Park
*TENANT'S SHARE OF COMMON AREA UTILITY COSTS (Paragraph 7): 45% of the Park
*TENANT'S SHARE OF UTILITY EXPENSES (Paragraph 7): 45% of the Park *The amount of Tenant's Share of the expenses as referenced above shall be subject to modification as set forth in this Lease.

PERMITTED USES

(Paragraph 9): General office, industrial, assembly, light
manufacturing and distribution of computer products,
but only to the extent permitted by the City of San
Jose and all agencies and governmental authorities
having jurisdiction thereof

UNRESERVED

PARKING SPACES: Three hundred nineteen (319) non-exclusive and undesignated spaces

BROKERS (Paragraph 38): Dennis Chambers of CPS for Tenant
Wayne Mascia Associates for Landlord

EXHIBITS:

- Exhibit A - Premises, Building, Lot and/or Park
- Exhibit B - Tenant Improvements
- Exhibit C - Rules and Regulations
- Exhibit D - Covenants, Conditions and Restrictions (Intentionally Omitted)
- Exhibit E - Hazardous Materials Disclosure Certificate - Example
- Exhibit F - Change of Commencement Date - Example
- Exhibit G - Tenant's Initial Hazardous Materials Disclosure Certificate
- Exhibit H - Sign Criteria (Intentionally Omitted)

ADDENDA:

- Addendum 1: First Option to Extend the Lease
- Addendum 2: Second Option to Extend the Lease

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LEASE AGREEMENT

DATE: This Lease is made and entered into as of the Lease Date set forth on Page 1. The Basic Lease Information set forth on Page 1 and this Lease are and shall be construed as a single instrument.

1. **PREMISES:** Landlord hereby leases the Premises to Tenant upon the terms and conditions contained herein. Landlord hereby grants to Tenant a license for the right to use, on a non-exclusive basis, parking areas and ancillary facilities located within the Common Areas of the Park, subject to the terms of this Lease; provided, however, such license shall only be revocable (i) if Tenant is in default of its obligations under this Lease beyond applicable cure periods, or (ii) upon the expiration or earlier termination of this Lease. For purposes of this Lease, the term "Premises" shall mean and refer to the entirety of both of the Buildings, namely, Building A and Building B situated within the Park. Landlord and Tenant hereby agree that for purposes of this Lease, as of the Lease Date, the rentable square footage area of the Premises, the Buildings, the Lot and the Park shall be deemed to be the number of rentable square feet as set forth in the Basic Lease Information on Page 1; provided, however, within fifteen (15) days after the date on which Landlord causes the Buildings to be Substantially Completed (as such term is defined in Exhibit B hereto), Tenant may have its architect verify the actual rentable square feet contained within the Premises (i.e. the Buildings), provided that the basis of such measurement shall be measured from drip line to drip line and not in accordance with BOMA standards. Tenant hereby acknowledges that the rentable square footage of the Premises may include a proportionate share of certain areas used in common by all occupants of the Buildings (for example an electrical room or telephone room). Landlord and Tenant hereby acknowledge and agree that as of the Lease Date the Buildings have not been constructed on the Lot. After Landlord has Substantially Completed (as such term is defined in Exhibit B hereto) the Shell Improvements, Landlord and Tenant shall execute a written amendment to this Lease, substantially in the form of Exhibit F hereto, wherein the parties shall specify the (i) actual approximate rentable square footage of each of the Premises, the Buildings and the Park, (ii) actual amount of Base Rent to be paid by Tenant, which shall be based upon the amount of base rent per rentable square foot as set forth in the Basic Lease Information, (iii) actual amount of Tenant's Share of the expenses set forth in the Basic Lease Information, which share shall be based upon such approximate rentable square footages, and (iv) the Premises Addresses. Tenant further agrees that the number of rentable square feet of the Buildings, the Lot and the Park may subsequently change after the Lease Date commensurate with any modifications to any of the foregoing by Landlord due to any casualty to, or condemnation of, any portion of the Premises, and Tenant's Share shall accordingly change.

2. ADJUSTMENT OF COMMENCEMENT DATE; CONDITION OF THE PREMISES:

2.1 If on the Commencement Date (a) Landlord has not delivered possession of the Premises with only the Shell Improvements (defined in Exhibit B hereto) Substantially Completed, and (b) Tenant has not Substantially Completed the Tenant Improvements, Landlord shall not be subject to any liability nor shall the validity of the Lease be affected; provided, subject to the provisions set forth below, the Lease Term and the obligation to pay Rent shall commence on the date which is the earlier to occur of (i) the date on which Tenant has Substantially Completed the Tenant Improvements (defined in Exhibit B hereto), or (ii) the date which is ninety (90) business days after Landlord has Substantially Completed the Shell Improvements (provided, said 90-business day period may be extended by a maximum of an additional period of 30 days if Tenant is delayed from Substantially Completing the Tenant Improvements wholly due either to delays attributable to Landlord's failure to timely perform its obligations with respect to the Shell Improvements because of events within Landlord's control (the "Landlord Delays") or events considered to be Force Majeure Delays (defined in Exhibit B hereto). The Expiration Date shall also be extended commensurately therewith. In addition to the foregoing and notwithstanding anything to the contrary contained herein or in Exhibit B hereto, if Landlord does not tender possession to Tenant of the Premises with the Shell Improvements Substantially Complete by November 15, 1997 (the "Outside Date") (subject to any Force Majeure Delays or Tenant Delays, in which event the date of November 15, 1997 shall be extended commensurately by the period of time attributable to such delays), then either Tenant or Landlord may terminate this Lease by delivering written notice thereof to the other party no later than the date which is ten (10) business days after the Outside Date, as extended by the period of time attributable to any Force Majeure Delays and/or Tenant Delays. In addition to the foregoing and notwithstanding anything to the contrary contained herein or in Exhibit B hereto, if Landlord does not tender possession to Tenant of the Premises with the Shell Improvements Substantially Complete by March 1, 1998 (the "Ultimate Outside Date") (subject to any Tenant Delays, in which event the date of March 1, 1998 shall be extended commensurately by the period of time attributable to such delays), then either Tenant or Landlord may terminate this Lease by delivering written notice thereof to the other party no later than the date which is ten (10) business days after the Ultimate Outside Date, as extended by the period of time attributable to any Tenant Delays. If either party fails to timely terminate the Lease as and when provided herein, or if Landlord delivers to Tenant possession of the Premises with the Tenant Improvements Substantially Complete at any time earlier than the Outside Date (as such date may be extended due to Force Majeure Delays or Tenant Delays, as the case may be) or the Ultimate Outside Date (as such date may be extended due to Tenant Delays), as applicable, then upon the occurrence of any such events the foregoing right given to Tenant and Landlord to terminate this Lease as provided herein shall lapse and be null and void upon the earlier occurrence of such event and the Lease shall remain in full force and effect with Tenant and Landlord having no further right to terminate this Lease pursuant to the foregoing provisions. If Landlord does so timely deliver to Tenant possession of the Premises with the Shell Improvements Substantially Complete, Tenant shall promptly deliver

written notice to Landlord confirming same. In the event the commencement date and/or the expiration date of this Lease is other than the Commencement Date and/or Expiration Date provided on Page 1 in the Basic Lease Information, as the case may be, Landlord and Tenant shall execute a written amendment to this Lease, substantially in the form of Exhibit F hereto, wherein the parties shall specify the actual commencement date, expiration date, the date on which Tenant is to commence paying Rent and the other matters referred to in Section 1 above. The word "Term" whenever used herein refers to the initial term of this Lease and any extension thereof. Except as otherwise expressly set forth below with regard to Punchlist Items, by taking possession of the Premises with only the Shell Improvements Substantially Completed, Tenant shall be deemed to have accepted the Premises in a good, clean and completed condition and state of repair. Notwithstanding the foregoing, within three (3) business days after the Substantial Completion (as such term is defined in Exhibit B hereto) of the Shell Improvements representatives of Landlord and Tenant shall make a joint inspection of the Shell Improvements and the results of each such inspection shall be set forth in a written list specifying the incomplete items as well as those items for which corrections need to be made (the "Punchlist Items"). Landlord and Tenant shall promptly (by no later than three (3) business days thereafter) and in good faith approve the written list of Punchlist Items. Landlord, at its sole cost and expense, shall use commercially reasonable efforts to cause the Punchlist Items to be promptly completed and/or corrected, as applicable. The performance of the work associated with the Punchlist Items shall be performed in such a manner so as not to preclude or substantially prevent Tenant's ability to construct the Tenant Improvements in the Premises. Upon the completion of the Punchlist Items to Tenant's reasonable satisfaction Tenant shall immediately notify Landlord in writing that such items have been completed to Tenant's reasonable satisfaction. In addition to the Punchlist Items, Landlord shall also use commercially reasonable efforts to cause the general contractor to correct any other patent deficiencies or defects in the Shell Improvements during the thirty (30) day period following Substantial Completion of the Shell Improvements. If Tenant fails to timely deliver to Landlord any such written notice of the aforementioned patent defects or deficiencies within said 30-day period, Landlord shall have no obligation to perform any such work thereafter, except as otherwise specifically provided in Sections 5 and 14 of this Lease. Tenant hereby acknowledges and agrees that neither Landlord nor Landlord's agents or representatives has made any representations or warranties as to the suitability, safety or fitness of the Premises for the conduct of Tenant's business, Tenant's intended use of the Premises or for any other purpose.

2.2 Landlord shall permit Tenant to enter and occupy the Premises prior to the Commencement Date for purposes of installing a portion of the Tenant Improvements and to perform Tenant's Pre-Occupancy Work (as such term is defined in Exhibit B hereto). Landlord shall consult with its general contractor and shall notify Tenant, in writing, of the date on which Tenant may commence such limited purpose occupancy. In no event may Tenant conduct its business or operations from the Premises until after the Commencement Date. Such limited purpose occupancy by Tenant shall be at Tenant's sole risk and shall also be subject to all of the provisions of this Lease other than the requirement to pay Rent (other than any Utility Expenses incurred during the time period Tenant is constructing the Tenant Improvements), including, but not limited to, the requirement to obtain the insurance required pursuant to this Lease (including without limitation, the provisions of Exhibit B hereto) and to deliver insurance certificates as required herein, and to pay for all utilities and Utility Expenses to the extent incurred during the time period Tenant is constructing the Tenant Improvements. In addition to the foregoing and the provisions of Exhibit B hereto regarding such early occupancy, Landlord shall have the right to impose such additional conditions on Tenant's early entry as Landlord shall deem reasonably appropriate. If, at any time, Tenant is in default of any term, condition or provision of this Lease, any such waiver by Landlord of Tenant's requirement to pay rental payments shall be null and void and Tenant shall immediately pay to Landlord all rental payments so waived by Landlord.

3. RENT: On the date that Tenant executes this Lease, Tenant shall deliver to Landlord the original executed Lease, the Base Rent (which shall be applied against the Rent payable for the first month Tenant is required to pay Base Rent), and all insurance certificates or, alternatively, the letter required pursuant to Section 12.5 hereof, evidencing the insurance required to be obtained by Tenant under Section 12 of this Lease and under the provisions of Exhibit B hereto. Tenant agrees to pay Landlord, without prior notice or demand, or abatement (except as otherwise set forth in Sections 27 and 41 hereof), offset, deduction or claim, the Base Rent described on Page 1, payable in advance at Landlord's address shown on Page 1 on the Commencement Date and thereafter on the first (1st) day of each month throughout the Term of the Lease. In addition to the Base Rent set forth on Page 1, Tenant shall pay Landlord in advance, on the Commencement Date and thereafter on the first (1st) day of each month throughout the Term of this Lease, as Additional Rent, Tenant's Share of Operating Expenses, Tax Expenses, Common Area Utility Costs, and Utility Expenses. The term "Rent" whenever used herein refers to the aggregate of all these amounts. If Landlord permits Tenant to occupy the Premises to conduct business operations therein without requiring Tenant to pay rental payments for a period of time, the waiver of the requirement to pay rental payments shall only apply to waiver of the Base Rent and Tenant shall otherwise perform all other obligations of Tenant required hereunder. The Rent for any fractional part of a calendar month at the commencement or termination of the Lease term shall be a prorated amount of the Rent for a full calendar month based upon a thirty (30) day month. The prorated Rent shall be paid on the Commencement Date and the first day of the calendar month in which the date of termination occurs, as the case may be.

4. SECURITY DEPOSIT: Intentionally omitted.

5. TENANT IMPROVEMENTS: Upon Substantial Completion by Landlord of the Shell Improvements and the completion by Landlord of any Punchlist Items, Tenant hereby agrees to accept the Premises in its then current

"AS IS" condition. Subject to the provisions of Exhibit B hereto, Tenant shall install the improvements ("Tenant Improvements") in the Premises in accordance with the terms, conditions, criteria and provisions set forth in Exhibit B hereto. Tenant acknowledges that neither Landlord nor any of Landlord's agents, representatives or employees has made any representations as to the suitability or fitness of the Premises for the conduct of Tenant's business, including without limitation, any storage incidental thereto, or for any other purpose, and that neither Landlord nor any of Landlord's agents, representatives or employees has agreed to undertake any alterations or construct any Tenant Improvements to the Premises except for the construction of the Shell Improvements as expressly provided in Exhibit B to this Lease. Notwithstanding the foregoing, Landlord shall allow Tenant to, concurrently with Landlord (if Landlord so desires, otherwise separately), make a claim against Landlord's general contractor for any patent or latent defects in the initial design or construction of the Shell Improvements for a period of five (5) years after the date on which the Shell Improvements are Substantially Completed. In addition to the foregoing, Tenant shall be entitled to enforce, concurrently with Landlord, any warranties made or given to Landlord from the general contractor and any major subcontractors with respect to the Shell Improvements. Notwithstanding anything to the contrary contained herein, Tenant shall allow Landlord to, concurrently with Tenant (if Tenant so desires, otherwise separately), or after the expiration or earlier termination of this Lease, individually, make a claim against Tenant's general contractor, namely Devcon Construction Inc. (the "Tenant's General Contractor") for any patent or latent defects in the initial design or construction of the Tenant Improvements for a period of five (5) years after the date on which the Tenant Improvements are substantially completed. In addition to the foregoing, Landlord shall be entitled to enforce, concurrently with Tenant, or after the expiration or earlier termination of this Lease, individually, any warranties made or given to Tenant from the Tenant's General Contractor and any major subcontractors with respect to the Tenant Improvements. Each of Landlord and Tenant shall be third party beneficiaries of the other party's construction agreements, and accordingly, each party hereby agrees to include a provision in their respective construction contracts to effectuate same.

6. ADDITIONAL RENT : It is intended by Landlord and Tenant that this Lease be a "triple net lease". The costs and expenses described in this Section 6 and all other sums, charges, costs and expenses specified in this Lease other than Base Rent are to be paid by Tenant to Landlord as additional rent (collectively, "Additional Rent").

6.1 OPERATING EXPENSES: In addition to the Base Rent set forth in Section 3, Tenant shall pay Tenant's Share, which is defined on Page 1, of all Operating Expenses as Additional Rent. The term "Operating Expenses" as used herein shall mean the total actual amounts paid or payable by Landlord in connection with the ownership, maintenance, repair and operation of the Premises, the Buildings and the Lot, and where applicable, of the Park referred to on Page 1. The amount of Tenant's Share of Operating Expenses shall be reviewed from time to time by Landlord and shall be subject to modification by Landlord if there is a change in the rentable square footage of the Premises, the Buildings and/or the Park due to any casualty or condemnation of any portion of the Premises. These Operating Expenses may include, but are not limited to:

6.1.1 Landlord's cost of repairs to, and maintenance of, the non-structural portions of the roof, the roof membrane and the non-structural portions of the exterior walls of the Buildings;

6.1.2 Landlord's cost of maintaining the outside paved area, landscaping and other common areas for the Park. The term "Common Areas" shall mean all areas and facilities within the Park exclusive of the Premises and the other portions of the Park leased exclusively to other tenants. The Common Areas include, but are not limited to, parking areas, access and perimeter roads, sidewalks, landscaped areas and similar areas and facilities;

6.1.3 Landlord's annual cost of insurance insuring against fire and extended coverage (including, if Landlord elects, "all risk" or "special purpose" coverage) and all other insurance, including, but not limited to, earthquake, flood and/or surface water endorsements for the Buildings, the Lot and the Park (including the Common Areas), rental value insurance against loss of Rent in an amount equal to the amount of Rent for a period of no more than twelve (12) months commencing on the date of loss, and subject to the provisions of Section 27 below, any commercially reasonable deductible;

6.1.4 Landlord's cost of: (i) modifications and/or new improvements to the Buildings, the Common Areas and/or the Park occasioned by any rules, laws or regulations effective subsequent to the date on which the Buildings are Substantially Completed; (ii) reasonably necessary replacement improvements to the Buildings, the Common Areas and the Park after the Commencement Date; and (iii) new improvements to the Buildings, the Common Areas and/or the Park that reduce operating costs or improve life/safety conditions, all as reasonably determined by Landlord, in its sole discretion; provided, however, if any of the foregoing are in the nature of capital improvements, then the cost of such capital improvements shall be amortized on a straight-line basis over a reasonable period, which shall not be less than the lesser of fifteen (15) years or the reasonably estimated useful life of such modifications, new improvements or replacement improvements in question (at an interest rate as reasonably determined by Landlord), and Tenant shall pay Tenant's Share of the monthly amortized portion of such costs (including interest charges) as part of the Operating Expenses herein;

6.1.5 If Landlord elects to so procure, Landlord's cost of preventative maintenance, and repair contracts including, but not limited to, contracts for elevator systems and heating, ventilation and air conditioning systems, lifts for disabled persons, and trash or refuse collection in the Buildings only;

6.1.6 Landlord's cost of security and fire protection services for the Buildings and/or the Park, as the case may be, if in Landlord's reasonable discretion such services are provided;

6.1.7 Landlord's cost for the creation and negotiation of, and pursuant to, any licenses, easements or other similar undertakings benefitting the Buildings or Tenant's use of portions of the Park to the extent incurred after the Commencement Date;

6.1.8 Landlord's cost of supplies, equipment, rental equipment and other similar items used in the operation and/or maintenance of the Park;

6.1.9 Landlord's cost for the repairs and maintenance items set forth in Section 11.2 below; and

6.1.10 Landlord's cost for the management and administration of the Premises, the Buildings, the Common Areas and the Park, including without limitation, a property management fee, accounting, auditing, billing, salaries for clerical and supervisory employees (whether located within the Park or off-site) and all fees, licenses and permits related to the ownership, operation and management of any portion of the Park in an amount not to exceed three percent (3%) of the Base Rent.

Notwithstanding anything to the contrary contained herein, for purposes of this Lease, the term "Operating Expenses" shall not include the following:

- (a) Costs (including permit, license, and inspection fees) incurred in renovating, improving, decorating, painting, or redecorating vacant space or space for other tenants within the Park;
- (b) Costs incurred because Landlord or another tenant actually violated the terms of any lease for premises within the Buildings and/or Park;
- (c) Legal and auditing fees (other than those fees reasonably incurred in connection with the maintenance and operation of the Buildings and/or Park), leasing commissions, advertising expenses, and other costs incurred in connection with the original development or original leasing of the Buildings and/or Park or future re-leasing of the Buildings and/or Park;
- (d) Depreciation of the Buildings or any other improvements situated within the Park;
- (e) Any items for which Landlord is actually reimbursed by insurance or by direct reimbursement by any other tenant of the Buildings or Park;
- (f) Costs of repairs or other work necessitated by fire, windstorm or other casualty (excluding any commercially reasonable deductibles) and/or costs of repair or other work necessitated by the exercise of the right of eminent domain to the extent insurance proceeds or a condemnation award, as applicable, is actually received by Landlord for such purposes; provided such costs of repairs or other work shall be paid by the parties in accordance with the provisions of Sections 27 and 28 below;
- (g) Other than any interest charges for capital improvements referred to in Section 6.1.4 hereinabove, any interest or payments on any financing for the Buildings or the Park, interest and penalties incurred as a result of Landlord's late payment of any invoice (provided that Tenant pays Tenant's Share of Operating Expenses and Tax Expenses to Landlord when due as set forth herein), and any bad debt loss, rent loss or reserves for same;
- (h) Costs associated with the investigation and/or remediation of Hazardous Materials (hereafter defined) present in, on or about the Premises, the Buildings or the Park, unless such costs and expenses are the responsibility of Tenant as provided in Section 29 of this Lease, in which event such costs and expenses shall be paid solely by Tenant in accordance with the provisions of Section 29 of this Lease;
- (i) Costs of correcting defects in the initial design or construction of the Shell Improvements or the repair or replacement of any original materials and equipment as a result of such defects, as long as such defects are covered by warranties from the contractors performing such work and Landlord has actually received compensation therefor; and
- (j) Landlord's cost for the repairs and maintenance items set forth in Section 11.3 below.

6.2 TAX EXPENSES: In addition to the Base Rent set forth in Section 3, Tenant shall pay its share, which is defined on Page 1, of all real property taxes applicable to the land and improvements included within the Lot on which the Premises are situated and one hundred percent (100%) of all personal property taxes now or hereafter assessed or levied against the Premises or Tenant's personal property. The amount of Tenant's Share of Tax Expenses shall be reviewed from time to time by Landlord and shall be subject to modification by Landlord if there is a change in the rentable square footage of the Premises, the Buildings and/or the Park. Tenant shall also pay one hundred percent (100%) of any increase in real property taxes attributable, in Landlord's sole discretion, to any and all alterations, Tenant Improvements or other improvements of any kind, which are above standard improvements customarily installed for similar buildings located within the Buildings or the Park (as applicable), whatsoever placed in, on or about the Premises for the benefit of, at the request

of, or by Tenant. The term "Tax Expenses" shall mean and include, without limitation, any form of tax and assessment (general, special, supplemental, ordinary or extraordinary), commercial rental tax, payments under any improvement bond or bonds, license fees, license tax, business license fee, rental tax, transaction tax, levy, or penalty imposed by authority having the direct or indirect power of tax (including any city, county, state or federal government, or any school, agricultural, lighting, drainage or other improvement district thereof) as against any legal or equitable interest of Landlord in the Premises, the Buildings, the Lot or the Park, as against Landlord's right to rent, or as against Landlord's business of leasing the Premises or the occupancy of Tenant or any other tax, fee, or excise, however described, including, but not limited to, any value added tax, or any tax imposed in substitution (partially or totally) of any tax previously included within the definition of real property taxes, or any additional tax the nature of which was previously included within the definition of real property taxes. The term "Tax Expenses" shall not include any (i) franchise, estate, inheritance, net income, or excess profits tax imposed upon Landlord, or (ii) any interest or penalties resulting solely from Landlord's failure to pay any Tax Expenses (excluding any failure on the part of Landlord to so timely make such payments due to Tenant's failure to timely make such payments to Landlord).

6.3 PAYMENT OF EXPENSES: Landlord shall estimate Tenant's Share of the Operating Expenses and Tax Expenses for the calendar year in which the Lease commences. Commencing on the Commencement Date, one-twelfth (1/12th) of this estimated amount shall be paid by Tenant to Landlord, as Additional Rent, on the first (1st) day of each month and throughout the remaining months of such calendar year. Thereafter, Landlord may reasonably estimate such expenses as of the beginning of each calendar year and Tenant shall pay one-twelfth (1/12th) of such estimated amount as Additional Rent hereunder on the first day of each month during such calendar year and for each ensuing calendar year throughout the Term of this Lease. Tenant's obligation to pay Tenant's Share of Operating Expenses and Tax Expenses shall survive the expiration or earlier termination of this Lease.

6.4 ANNUAL RECONCILIATION: By June 30th of each calendar year, or as soon thereafter as reasonably possible, Landlord shall endeavor to furnish Tenant with an accounting prepared with reasonable detail of actual Operating Expenses and Tax Expenses. Within thirty (30) days of Landlord's delivery of such accounting, Tenant shall pay to Landlord the amount of any underpayment. Notwithstanding the foregoing, failure by Landlord to give such accounting by such date shall not constitute a waiver by Landlord of its right to collect any of Tenant's underpayment at any time. Landlord shall credit the amount of any overpayment by Tenant toward the next Base Rent falling due, or where the Term of the Lease has expired, refund the amount of overpayment to Tenant. If the Term of the Lease expires prior to the annual reconciliation of expenses Landlord shall have the right to reasonably estimate Tenant's Share of such expenses, and if Landlord determines that an underpayment is due, Tenant hereby agrees to pay to Landlord the amount of such underpayment within thirty (30) days after Landlord's delivery of a demand therefor. If Landlord reasonably determines that an overpayment has been made by Tenant, Landlord shall refund said overpayment to Tenant within thirty (30) days after Landlord has made such determination. Notwithstanding the foregoing, failure of Landlord to accurately estimate Tenant's Share of such expenses or to otherwise perform such reconciliation of expenses, including without limitation, Landlord's failure to make a written demand for any underpayment from Tenant, shall not constitute a waiver of Landlord's right to collect any of Tenant's underpayment at any time during the Term of the Lease during the one (1) year period following the last day of the period to which such underpayment relates or at any time during the one (1) year period following the expiration or earlier termination of this Lease.

6.5 AUDIT: After delivery to Landlord of at least thirty (30) days prior written notice, Tenant, at its sole cost and expense, shall have the right to examine and/or audit the books and records evidencing such costs and expenses for the previous one (1) calendar year, during Landlord's reasonable business hours but not more frequently than once during any calendar year. Notwithstanding the foregoing, Tenant may only audit the books and records of Landlord with respect to the Premises and/or the Lease so long as Tenant fully complies with all of the following requirements: (i) any audit by Tenant shall be conducted by an accounting or audit firm or financial officer of Tenant; (ii) any audit shall be conducted in Landlord's offices during reasonable business hours, and after delivery to Landlord of at least thirty (30) days' prior written notice; (iii) Tenant may only audit the books and records for the previous one (1) year period in question and after the lapse of one (1) year from the date on which Landlord delivers to Tenant any accounting or statement regarding any rental payments to be made by Tenant under this Lease, Tenant shall not have any right or ability to audit Landlord's books and records with respect to such rental payments or charges; and (iv) if it is determined through such audit that the amount of the expenses actually paid by Tenant to Landlord for the period in question have not been overstated by an amount that is more than seven percent (7%) of the aggregate of such expenses, then Tenant shall immediately pay to Landlord, and reimburse Landlord for, the costs and expenses incurred by Landlord in connection with such audit, including without limitation, costs attributable to the time spent by Landlord's or Landlord's property management company's staff in connection with such audit, as such costs are reasonably determined by Landlord. Landlord and Tenant shall use their best efforts to cooperate in such negotiations and to promptly resolve any discrepancies between Landlord and Tenant in the accounting of such costs and expenses.

7. UTILITIES: Utility Expenses, Common Area Utility Costs and all other sums or charges set forth in this Section 7 are considered part of Additional Rent. Tenant shall pay the cost of all water, sewer use, sewer discharge fees and sewer connection fees, gas, heat, electricity, refuse pickup, janitorial service, telephone and other utilities billed or metered separately to the Premises and/or Tenant. Tenant shall also pay its share of any assessments or charges for utility or similar purposes included within any tax bill for the Lot on which the Premises are situated, including, without limitation, entitlement fees related to Tenant's particular use of the

Premises, allocation unit fees, and/or any similar fees or charges, and any penalties related thereto to the extent any such penalties result from Tenant's failure to so timely make such payments. For any such utility fees or use charges that are not billed or metered separately to Tenant, Tenant shall pay to Landlord, as Additional Rent, without prior notice or demand, on the Commencement Date and thereafter on the first (1st) day of each month throughout the balance of the Term of this Lease the amount which is attributable to Tenant's use of the utilities or similar services, as reasonably estimated and determined by Landlord based upon factors such as size of the Premises and intensity of use of such utilities by Tenant such that Tenant shall pay the portion of such charges reasonably consistent with Tenant's use of such utilities and similar services ("Utility Expenses"). In addition, Tenant shall pay to Landlord Tenant's Share, which is set forth on Page 1, as Additional Rent, without prior notice or demand, on the Commencement Date and thereafter on the first (1st) day of each month throughout the balance of the Term of this Lease, of any Common Area utility costs, fees, charges or expenses ("Common Area Utility Costs"). Tenant shall pay to Landlord one-twelfth (1/12th) of the estimated amount of Tenant's Share of the Common Area Utility Costs in the same manner and time periods as specified in Section 6.3 above and any reconciliation thereof shall also be in the same manner as specified in Sections 6.3 and 6.4 above. The amount of Tenant's Share of Common Area Utility Costs shall be reviewed from time to time by Landlord and shall be subject to modification by Landlord if there is a change in the rentable square footage of the Premises, the Buildings and/or the Park due to any casualty or condemnation of any portion of the Premises. Tenant acknowledges that the Premises may become subject to the rationing of utility services or restrictions on utility use as required by a public utility company, governmental agency or other similar entity having jurisdiction thereof. Notwithstanding any such rationing or restrictions on use of any such utility services, Tenant acknowledges and agrees that its tenancy and occupancy hereunder shall be subject to such rationing restrictions as may be imposed upon Landlord, Tenant, the Premises, the Buildings or the Park, and Tenant shall in no event be excused or relieved from any covenant or obligation to be kept or performed by Tenant by reason of any such rationing or restrictions. Tenant further agrees to timely and faithfully pay, prior to delinquency, any amount, tax, charge, surcharge, assessment or imposition levied, assessed or imposed upon the Premises, or Tenant's use and occupancy thereof. Notwithstanding anything to the contrary contained herein, if due to incidents, events or occurrences other than those arising from Tenant's or Tenant's Representatives' negligent or intentional acts or omissions essential utility services for the conduct of Tenant's operations in the Premises are discontinued or interrupted for a consecutive period of one hundred eighty (180) days or more, then such discontinuance or interruption of essential utility services shall be considered to be a casualty and the provisions of Section 27 shall apply thereto.

8. **LATE CHARGES:** Any and all sums or charges set forth in this Section 8 are considered part of Additional Rent. Tenant acknowledges that late payment (the second day after Landlord's delivery of written notice that any sum has not been paid when due or any time thereafter) by Tenant to Landlord of Base Rent, Tenant's Share of Operating Expenses, Tax Expenses, Common Area Utility Costs, and Utility Expenses or other sums due hereunder, will cause Landlord to incur costs not contemplated by this Lease, the exact amount of such costs being extremely difficult and impracticable to fix. Such costs include, without limitation, processing and accounting charges, and late charges that may be imposed on Landlord by the terms of any note secured by any encumbrance against the Premises, and late charges and penalties due to the late payment of real property taxes on the Premises. Therefore, if any installment of Rent or any other sum due from Tenant is not received by Landlord within two (2) days after Landlord's delivery of written notice that such sum is otherwise due, Tenant shall promptly pay to Landlord all of the following, as applicable: (a) an additional sum equal to seven percent (7%) of such delinquent amount as a late charge for every month or portion thereof that such sums remain unpaid, and (b) the amount of fifty dollars (\$50) relating to checks for which there are not sufficient funds; provided, however, the foregoing late charges shall only be required to be paid by Tenant if Tenant has been late in making such payments more than three (3) times during the Term of this Lease. If Tenant delivers to Landlord a check for which there are not sufficient funds, Landlord may, at its sole option, require Tenant to replace such check with a cashier's check for the amount of such check and all other charges payable hereunder. The parties agree that this late charge and the other charges referenced above represent a fair and reasonable estimate of the costs that Landlord will incur by reason of late payment by Tenant. Acceptance of any late charge or other charges shall not constitute a waiver by Landlord of Tenant's default with respect to the delinquent amount, nor prevent Landlord from exercising any of the other rights and remedies available to Landlord for any other breach of Tenant under this Lease. If a late charge or other charge becomes payable for any three (3) installments of Rent within any twelve (12) month period, then Landlord, at Landlord's sole option, can either require the Rent be paid quarterly in advance, or be paid monthly in advance by cashier's check or by electronic funds transfer.

9. USE OF PREMISES:

9.1 COMPLIANCE WITH LAWS, RECORDED MATTERS, AND RULES AND REGULATIONS:

The Premises are to be used solely for the uses stated on Page 1 and for no other uses or purposes without Landlord's prior written consent, which consent shall not be unreasonably withheld or delayed so long as the proposed use (i) does not involve the use of Hazardous Materials other than as expressly permitted under the provisions of Section 29 below, (ii) does not require any additional parking in excess of the parking spaces already licensed to Tenant pursuant to the provisions of Section 24 of this Lease, and (iii) is compatible and consistent with the other uses then being made in the Park and in other similar type of buildings in the vicinity of the Park, as reasonably determined by Landlord. The use of the Premises by Tenant and its employees, representatives, agents, invitees, licensees, subtenants, customers or contractors (collectively, "Tenant's Representatives") shall be subject to, and at all times in compliance with, (a) any and all applicable laws, ordinances, statutes, orders and regulations as same exist from time to time (collectively, the "Laws"), (b) any and all documents, matters or instruments,

including without limitation, any declarations of covenants, conditions and restrictions, and any supplements thereto, each of which has been or hereafter is recorded in any official or public records with respect to the Premises, the Buildings, the Lot and/or the Park, or any portion thereof (collectively, the "Recorded Matters"), provided, if any of the Recorded Matters which are subsequently recorded after the Lease Date materially affect Tenant's rights and obligations under this Lease (excluding any liens related to any mortgage, deed of trust or similar type of security interest, and any easements, liens and other recorded matters required or imposed in connection with the development and construction of the Buildings and the other improvements to be made as part of the Park), then Landlord shall obtain Tenant's prior written consent to same, which consent shall not be unreasonably withheld or delayed, and (c) any and all rules and regulations set forth in Exhibit C, attached to and made a part of this Lease, and any other reasonable rules and regulations promulgated by Landlord now or hereafter enacted relating to parking and the operation of the Premises, the Buildings and the Park, provided same are enforced on a non-discriminatory basis (collectively, the "Rules and Regulations"). Tenant agrees to, and does hereby, assume full and complete responsibility to ensure that the Premises are adequate to fully meet the needs and requirements of Tenant's intended operations of its business within the Premises, and Tenant's use of the Premises and that same are in compliance with all applicable Laws throughout the Term of this Lease. Additionally, Tenant shall be solely responsible for the payment of all costs, fees and expenses associated with any modifications to the Premises, Buildings, the Common Areas and/or the Park occasioned by the enactment of, or changes to, any Laws arising from Tenant's particular use of, or alterations to, the Premises regardless of when such Laws become effective.

9.2 PROHIBITION ON USE: Tenant shall not use the Premises or permit anything to be done in or about the Premises nor keep or bring anything therein which will in any way conflict with any of the requirements of the Board of Fire Underwriters or similar body now or hereafter constituted or in any way increase the existing rate of or affect any policy of fire or other insurance upon the Buildings or any of its contents, or cause a cancellation of any insurance policy. No auctions may be held or otherwise conducted in, on or about the Premises, the Buildings, the Lot or the Park without Landlord's written consent thereto, which consent may be given or withheld in Landlord's sole discretion. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of Landlord, other tenants or occupants of the Buildings, other buildings in the Park, or other persons or businesses in the area, or injure or annoy other tenants or use or allow the Premises to be used for any unlawful or objectionable purpose, as determined by Landlord, in its reasonable discretion, for the benefit, quiet enjoyment and use by Landlord and all other tenants or occupants of the Buildings or other buildings in the Park; nor shall Tenant cause, maintain or permit any private or public nuisance in, on or about the Premises, Buildings, Park and/or the Common Areas, including, but not limited to, any offensive odors, noises, fumes or vibrations. Tenant shall not damage or deface or otherwise commit or suffer to be committed any waste in, upon or about the Premises. Except as may be permitted under applicable Laws and as Landlord may otherwise approve in writing, Tenant shall not place or store, nor permit any other person or entity to place or store, any property, equipment, materials, supplies, personal property or any other items or goods outside of the Premises for any period of time except in outside enclosures that are fully fenced and screened in compliance with all Recorded Matters and Laws, and which enclosures are designed for such purpose, and which have been approved by Landlord for such use. Other than seeing-eye dogs for the blind, Tenant shall not permit any animals, including, but not limited to, any household pets, to be brought or kept in or about the Premises. Tenant shall place no loads upon the floors, walls, or ceilings in excess of the maximum designed load permitted by the applicable Uniform Building Code or which may damage the Buildings or outside areas; nor place any harmful liquids in the drainage systems; nor dump or store waste materials, refuse or other such materials, or allow such to remain outside the Building area, except for any non-hazardous or non-harmful materials which may be stored in refuse dumpsters or in any enclosed trash areas provided. Tenant shall honor the terms of all Recorded Matters relating to the Premises, the Buildings, the Lot and/or the Park. Tenant shall honor the Rules and Regulations. If Tenant fails to comply with such Laws, Recorded Matters, Rules and Regulations or the provisions of this Lease, Landlord shall have the right to collect from Tenant Landlord's costs and expenses, if any, to cure any of such failures of Tenant, if Landlord, at its sole option, elects to undertake such cure.

10. ALTERATIONS AND ADDITIONS; AND SURRENDER OF PREMISES:

10.1 ALTERATIONS AND ADDITIONS: Tenant shall be permitted to make, at its sole cost and expense, non-structural alterations and additions to the Premises without obtaining Landlord's prior written consent provided the cost of same does not exceed \$75,000 cumulatively in any twelve-month period (the "Permitted Improvements"). Tenant, however, shall first notify Landlord of such alterations or additions comprising the Permitted Improvements so that Landlord may post a Notice of Non-Responsibility on the Premises. Within ten (10) business days of Landlord's receipt of Tenant's written notice of any item comprising the Permitted Improvements, Landlord shall notify Tenant whether or not Landlord will require Tenant to remove such item(s) from the Premises upon the expiration or earlier termination of this Lease. Except for the Permitted Improvements, Tenant shall not install any signs, fixtures (excluding trade fixtures), improvements, nor make or permit any other alterations or additions to the Premises without the prior written consent of Landlord. If any such alteration or addition is expressly permitted by Landlord, including without limitation, the Permitted Improvements, Tenant shall deliver at least twenty (20) days prior notice to Landlord, from the date Tenant intends to commence construction, sufficient to enable Landlord to post a Notice of Non-Responsibility. At the time that Landlord notifies Tenant of its approval or disapproval of any such request, Landlord shall advise Tenant in writing of those fixtures (excluding trade fixtures), improvements, alterations and additions which Landlord will require Tenant to remove upon the expiration or earlier termination of the Lease. In all events, Tenant shall obtain all permits or other governmental approvals prior to commencing any of such work and deliver a copy of same to Landlord. All alterations and additions shall be installed by a licensed contractor

reasonably approved by Landlord (except with regard to any Permitted Improvements the licensed contractor employed by Tenant therefor shall not be subject to Landlord's prior approval), at Tenant's sole expense in compliance with all applicable Laws (including, but not limited to, the ADA as defined herein), Recorded Matters, and Rules and Regulations. Tenant shall keep the Premises and the property on which the Premises are situated free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Tenant. All alterations and additions performed by Tenant are subject to Tenant obtaining all necessary building permits and shall be performed in a first-class workmanlike manner by licensed and insured contractors. As a condition to Landlord's consent to the installation of any fixtures, additions or other improvements the cost of which exceeds \$100,000 and solely in the event that there has been a material change in the financial condition of Tenant such that Tenant's net worth has fallen below \$100,000,000.00, Landlord may require Tenant to post and obtain a completion and indemnity bond or a letter of credit in form reasonably acceptable to Landlord for up to one hundred ten percent (110%) of the cost of the work. With respect to the Tenant Improvements, except for any cafeteria and related items that are part of the Tenant Improvements for which Landlord will require Tenant, at its sole cost and expense, to demolish and/or remove from the Premises upon the expiration or earlier termination of this Lease, Landlord shall not require Tenant to demolish and/or remove any other items comprising the Tenant Improvements from the Premises upon the expiration or earlier termination of this Lease.

10.2 SURRENDER OF PREMISES: Upon the termination of this Lease, whether by forfeiture, lapse of time or otherwise, or upon the termination of Tenant's right to possession of the Premises, Tenant will at once surrender and deliver up the Premises, together with the fixtures (other than trade fixtures), furnishings, additions and improvements which Landlord has not notified Tenant, in writing, that Landlord will require Tenant to remove (including without limitation, any items comprising the Tenant Improvements), to Landlord in good condition and repair subject to Tenant's compliance with its obligations under Sections 9, 29 and 37 hereof, including, but not limited to, replacing all light bulbs and ballasts not in good working condition, except for reasonable wear and tear, casualty damage and repairs which are Landlord's obligations pursuant to the provisions of Sections 11.2 and 11.3 below. Reasonable wear and tear shall not include any damage or deterioration to the floors of the Premises arising from the use of forklifts in, on or about the Premises (including, without limitation, any marks or stains of any portion of the floors), and any damage or deterioration that would have been prevented by proper maintenance by Tenant or Tenant otherwise performing all of its obligations under this Lease. Upon such termination of this Lease, Tenant shall remove any cafeteria and related items that are part of the Tenant Improvements, all tenant signage, trade fixtures, furniture, furnishings, equipment, personal property, additions, and such other improvements Landlord requests, in writing, at the time of Landlord's delivery of its consent to such installation, that Tenant remove some or all of such additions or improvements installed by, or on behalf of Tenant or situated in or about the Premises; provided, however, such requirement is reasonably based upon the nature and type of additions, improvements or alterations being substantially different than that improved or altered thereby. Tenant shall repair any damage caused by the installation or removal of any cafeteria and related items that are part of the Tenant Improvements, and such signs, trade fixtures, furniture, furnishings, fixtures (other than trade fixtures), equipment, personal property, additions and improvements which are to be removed from the Premises by Tenant hereunder. Tenant shall ensure that the removal of such items and the repair of the Premises will be completed prior to such termination of this Lease.

11. REPAIRS AND MAINTENANCE:

11.1 TENANT'S REPAIRS AND MAINTENANCE OBLIGATIONS: Except for those portions of the Buildings to be maintained by Landlord as provided in Sections 11.2 and 11.3 below, Tenant shall, at Tenant's sole cost and expense, keep and maintain the interior non-structural portions of the Premises and the adjacent dock and staging areas (including, without limitation, any portion of the Common Areas used by Tenant or Tenant's Representatives) in good, clean and safe condition and repair to the reasonable satisfaction of Landlord, reasonable wear and tear and casualty excepted, including, but not limited to, repairing any damage caused by Tenant or Tenant's Representatives and replacing any property so damaged by Tenant or Tenant's Representatives. Without limiting the generality of the foregoing, Tenant shall be solely responsible for maintaining, repairing and replacing (a) all mechanical systems, heating, ventilation and air conditioning systems serving the Premises, (b) all plumbing, electrical wiring and equipment serving the Premises, (c) all interior lighting (including, without limitation, light bulbs and/or ballasts) and exterior lighting serving the Premises or immediately adjacent to the Premises, (d) all interior glass, windows, window frames, window casements, skylights, interior and exterior doors, door frames and door closers, (e) all roll-up doors, ramps and dock equipment, including without limitation, dock bumpers, dock plates, dock seals, dock levelers and dock lights, (f) all tenant signage, (g) lifts for disabled persons serving the Premises, (h) sprinkler systems, fire protection systems and security systems, (i) all partitions, fixtures, equipment, interior painting, and interior walls and floors of the Premises and every part thereof (including, without limitation, any demising walls contiguous to any portion of the Premises), and (j) all interior lobbies and any mezzanines.

11.2 REIMBURSABLE REPAIRS AND MAINTENANCE OBLIGATIONS: Subject to the provisions of Sections 6 and 9 of this Lease and except for (i) the obligations of Tenant set forth in Section 11.1 above, (ii) the repairs rendered necessary by the intentional or negligent acts or omissions of Tenant or Tenant's Representatives, and (iii) the obligations of Landlord set forth in Section 11.3 below, Landlord agrees, at Landlord's expense, subject to reimbursement pursuant to Section 6 above, to keep in good repair the Common Areas, plumbing and mechanical systems exterior to the Premises, the roof, roof membranes, exterior walls of the Buildings, signage (exclusive of tenant signage), and exterior electrical wiring and equipment, exterior lighting, exterior glass, exterior doors/entrances and door closers, exterior window casements, exterior painting of the Buildings

(exclusive of the Premises), and underground utility and sewer pipes outside the exterior walls of the Buildings. For purposes of this Section 11.2, the term "exterior" shall mean exterior to, and not serving the Premises. Unless otherwise notified by Landlord, in writing, that Landlord has elected to procure and maintain the following described contract(s), Tenant shall procure and maintain (a) the heating, ventilation and air conditioning systems preventative maintenance and repair contract(s); such contract(s) to be on a quarterly basis, as reasonably determined by Landlord, and (b) the fire and sprinkler protection services and preventative maintenance and repair contract(s) (including, without limitation, monitoring services); such contract(s) to be on a quarterly basis. Landlord reserves the right, but without the obligation to do so, to procure and maintain, on similar terms with the foregoing requirements, (i) the heating, ventilation and air conditioning systems preventative maintenance and repair contract(s), and/or (ii) the fire and sprinkler protection services and preventative maintenance and repair contract(s) (including, without limitation, monitoring services). If Landlord so elects to procure and maintain any such contract(s), Tenant will reimburse Landlord for the cost thereof in accordance with the provisions of Section 6 above. If Tenant procures and maintains any of such contract(s), Tenant will promptly deliver to Landlord a true and complete copy of each such contract and any and all renewals or extensions thereof, and each service report or other summary received by Tenant pursuant to or in connection with such contract(s).

11.3 LANDLORD'S REPAIRS AND MAINTENANCE OBLIGATIONS: Except for repairs rendered necessary by the intentional or negligent acts or omissions of Tenant or Tenant's Representatives, Landlord agrees, at Landlord's sole cost and expense, to (a) keep in good repair the structural portions of the floors, foundations and exterior perimeter walls of the Buildings (exclusive of glass and exterior doors), and (b) replace and repair the structural portions of the roof of the Buildings (excluding the roof membrane) as, and when, Landlord determines such replacement to be necessary in Landlord's reasonable discretion, all of the foregoing to be performed in such a manner as is substantially consistent with maintenance and repair of comparable buildings of similar type and nature of construction in the San Jose area.

11.4 TENANT'S FAILURE TO PERFORM REPAIRS AND MAINTENANCE OBLIGATIONS:

Except for normal maintenance and repair of the items described above, Tenant shall have no right of access to or right to install any device on the roof of the Buildings nor make any penetrations of the roof of the Buildings without the express prior written consent of Landlord. If Tenant refuses or neglects to repair and maintain the Premises and the adjacent areas properly as required herein and to the reasonable satisfaction of Landlord, Landlord may, but without obligation to do so, at any time make such repairs and/or maintenance without Landlord having any liability to Tenant for any loss or damage that may accrue to Tenant's merchandise, fixtures or other property, or to Tenant's business by reason thereof, except to the extent any damage is caused by the willful misconduct or negligence of Landlord or its authorized agents and representatives. In the event Landlord makes such repairs and/or maintenance, upon completion thereof Tenant shall pay to Landlord, as additional rent, the Landlord's costs for making such repairs and/or maintenance, plus ten percent (10%) for overhead, upon presentation of a bill therefor. The obligations of Tenant hereunder shall survive the expiration of the Term of this Lease or the earlier termination thereof. Subject to the provisions of Section 41 hereof, Tenant hereby waives any right to repair at the expense of Landlord under any applicable Laws now or hereafter in effect respecting the Premises.

12. INSURANCE:

12.1 TYPES OF INSURANCE: Tenant shall maintain in full force and effect at all times during the Term of this Lease, at Tenant's sole cost and expense, for the protection of Tenant and Landlord, as their interests may appear, policies of insurance issued by a carrier or carriers with an A.M. Best's rating (or similar publication) of A-:VIII or better which afford the following coverages: (i) worker's compensation: statutory limits; (ii) employer's liability, as required by law, with a minimum limit of \$100,000 per employee and \$500,000 per occurrence; (iii) commercial general liability insurance (occurrence form) providing coverage against claims for bodily injury and property damage occurring in, on or about the Premises arising out of Tenant's and Tenant's Representatives' use and/or occupancy of the Premises. Such insurance shall include coverage for blanket contractual liability, fire damage, premises, personal injury, completed operations, and products liability. Such insurance shall have a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence with at least a Three Million Dollar (\$3,000,000) aggregate limit. If the aggregate limit is exhausted, then so long as Tenant satisfies the requirements of Section 12.5 below Tenant shall be deemed to have self-insured all of such risks. If the aggregate limit is exhausted but Tenant does not satisfy the requirements of Section 12.5 below, Tenant shall provide for restoration of the aggregate limit, as reasonably determined by Landlord; (iv) comprehensive automobile liability insurance: a combined single limit of not less than \$2,000,000 per occurrence and insuring Tenant against liability for claims arising out of the ownership, maintenance, or use of any owned, hired or non-owned automobiles; (v) "all risk" or "special purpose" property insurance, including without limitation, sprinkler leakage, boiler and machinery comprehensive form, if applicable, covering damage to or loss of any personal property, trade fixtures, inventory, fixtures and equipment located in, on or about the Premises, and in addition, coverage for flood, and business interruption of Tenant, together with, if the property of Tenant's invitees is to be kept in the Premises, warehouse's legal liability or bailee customers insurance for the full replacement cost of the property belonging to invitees and located in the Premises. Such insurance shall be written on a replacement cost basis (without deduction for depreciation) in an amount equal to one hundred percent (100%) of the full replacement value of the aggregate of the items referred to in this subparagraph (v); and (vi) such other insurance as Landlord deems reasonably necessary and prudent or as may otherwise be required by any of Landlord's lenders.

12.2 INSURANCE POLICIES: Insurance required to be maintained by Tenant shall be written by companies (i) licensed to do business in the State of California, (ii) domiciled in the United States of America, and (iii) having a "General Policyholders Rating" of at least A-VIII as set forth in the most current issue of "A.M. Best's Rating Guides" or similar publication. Any deductible amounts under any of the insurance policies actually procured by Tenant and as required hereunder is not in substitution of the limits of insurance coverage which must be maintained by Tenant, rather such deductibles are Tenant's self-insured retention for which Tenant shall be wholly responsible. Tenant shall deliver to Landlord certificates of insurance together with a true and complete copy of any waiver of subrogation endorsement required herein for the insurance required to be maintained by Tenant hereunder at the time of execution of this Lease by Tenant. If at any time Tenant is in default of its obligations under this Lease beyond any applicable cure periods, Tenant will deliver to Landlord a copy of any other endorsements to the insurance policies obtained by Tenant upon Landlord's request therefor. Tenant shall, at least five (5) days prior to expiration of each policy, furnish Landlord with certificates of renewal or "binders" thereof. Each certificate shall expressly provide that such policies shall not be cancelable or otherwise subject to material reduction of coverage except after thirty (30) days prior written notice to the parties named as additional insureds as required in this Lease (except for cancellation for nonpayment of premium, in which event cancellation shall not take effect until at least ten (10) days' notice has been given to Landlord), as such certificates are reasonably acceptable to the insurers issuing such policies and as is customarily provided to landlords in the general vicinity of the Premises. Tenant shall have the right to provide insurance coverage which it is obligated to carry pursuant to the terms of this Lease under a blanket insurance policy.

12.3 ADDITIONAL INSURED AND COVERAGE: Landlord, any property management company and/or agent of Landlord for the Premises, the Buildings, the Lot or the Park, and any lender(s) of Landlord having a lien against the Premises, the Buildings, the Lot or the Park shall be named as additional insureds under all of the policies required in Section 12.1(iii) above, as each of such parties' interests may appear. Additionally, such policies shall provide for severability of interest. All insurance to be maintained by Tenant shall, except for workers' compensation and employer's liability insurance, be primary, without right of contribution from insurance maintained by Landlord. The limits of insurance maintained by Tenant shall not limit Tenant's liability under this Lease. It is the parties' intention that the insurance to be procured and maintained by Tenant as required herein shall provide coverage for damage or injury arising from or related to Tenant's operations of its business and/or Tenant's or Tenant's Representatives' use of the Premises and/or any of the areas within the Park, whether such events occur within the Premises (as described in Exhibit A hereto) or in any other areas of the Park. It is not contemplated or anticipated by the parties that the aforementioned risks of loss be borne by Landlord's insurance carriers, rather it is contemplated and anticipated by Landlord and Tenant that such risks of loss be borne by Tenant's insurance carriers pursuant to the insurance policies procured and maintained by Tenant as required herein, except to the extent of Landlord's or its authorized representatives' negligence or willful misconduct.

12.4 FAILURE OF TENANT TO PURCHASE AND MAINTAIN INSURANCE: Subject to Tenant's ability to self-insure such risks in accordance with the provisions of Section 12.5 below, in the event Tenant does not purchase the insurance required in this Lease or keep the same in full force and effect throughout the Term of this Lease (including any renewals or extensions), Landlord may, but without obligation to do so, purchase the necessary insurance and pay the premiums therefor. If Landlord so elects to purchase such insurance, Tenant shall promptly pay to Landlord as Additional Rent, the amount so paid by Landlord, upon Landlord's demand therefor. In addition, Landlord may recover from Tenant and Tenant agrees to pay, as Additional Rent, any and all damages which Landlord may sustain by reason of Tenant's failure to so obtain and maintain such insurance. If Tenant fails to maintain any insurance required in this Lease or otherwise fails to comply with the provisions of Section 12.5 below regarding Tenant's ability to self-insure such risks, Tenant shall be liable for all losses, damages and costs resulting from such failure.

12.5 TENANT'S RIGHT TO SELF-INSURE: Notwithstanding anything to the contrary contained herein, only with respect to the Tenant named herein as of the Lease Date and provided that said Tenant has and maintains a net worth in excess of One Hundred Million Dollars (\$100,000,000.00), such originally named Tenant may self-insure the risks contemplated in this Section 12 to the extent that such self-insurance is permitted by all applicable Laws and provided further that Tenant shall be fully and completely responsible and liable, at its sole cost and expense, (1) to fully repair, restore, and replace any and all items described above which may be damaged due to such risks contemplated herein, (2) for all injuries to persons or property for which such risks would otherwise have been insured against under any of the policies described above, (3) for any losses experienced by Tenant or in Tenant's business which would have otherwise been covered by business interruption insurance, and (4) for any and all claims, damages, losses and other liabilities incurred by, or made against, Tenant, Landlord, Landlord's property management company and/or lenders arising from Tenant's election to self-insure the risks contemplated in this Section 12.5, including without limitation, any and all costs of defense, litigation or other similar proceeding. If the Tenant named herein as of the Lease Date does so elect to self-insure such risks, then in lieu of delivering to Landlord a certificate of insurance, Tenant shall deliver to Landlord (annually) a letter certified by an authorized officer of its company that such risks are being self-insured and that Tenant has complied with the financial criteria set forth herein, and such letter shall also contain such other information as Landlord's lender(s) may reasonably require (the "Self-Insurance Certificate").

13. WAIVER OF SUBROGATION: Landlord and Tenant hereby mutually waive their respective rights of recovery against each other for any loss of, or damage to, either parties' property to the extent that such loss or damage is insured by an insurance policy required to be in effect at the time of such loss or damage. Each party shall obtain any special endorsements, if required by its insurer whereby the insurer waives its rights of subrogation

against the other party. This provision is intended to waive fully, and for the benefit of the parties hereto, any rights and/or claims which might give rise to a right of subrogation in favor of any insurance carrier. The coverage obtained by Tenant pursuant to Section 12 of this Lease shall include, without limitation, a waiver of subrogation endorsement attached to the certificate of insurance. The provisions of this Section 13 shall not apply in those instances in which such waiver of subrogation would invalidate such insurance coverage or would cause either party's insurance coverage to be voided or otherwise uncollectible.

14. LIMITATION OF LIABILITY AND INDEMNITY: Except to the extent of damage resulting from the negligence or willful misconduct of Landlord or its authorized representatives, Tenant agrees to protect, defend (with counsel acceptable to Landlord) and hold Landlord and Landlord's lender(s), members, partners, employees, representatives, legal representatives, successors and assigns (collectively, the "Indemnitees") harmless and indemnify the Indemnitees from and against all liabilities, damages, claims, losses, judgments, charges and expenses (including reasonable attorneys' fees, costs of court and expenses necessary in the prosecution or defense of any litigation including the enforcement of this provision) arising from or in any way related to, directly or indirectly, (i) Tenant's or Tenant's Representatives' use of the Premises, Buildings and/or the Park, (ii) the failure by Tenant to perform its obligations under this Lease or any breach on the part of Tenant of any of the provisions of this Lease, or (iii) the conduct of Tenant's business, or from any activity, work or thing done, permitted or suffered by Tenant in or about the Premises, including, but not limited to, any liability for injury to person or property of Tenant, Tenant's Representatives, or third party persons. Tenant agrees that the obligations of Tenant herein shall survive the expiration or earlier termination of this Lease.

Except to the extent of damage resulting from the negligence or willful misconduct of Landlord or its authorized representatives, Landlord shall not be liable to Tenant for any loss or damage to Tenant or Tenant's property, for any injury to or loss of Tenant's business or for any damage or injury to any person from any cause whatsoever, including, but not limited to, any acts, errors or omissions by or on behalf of any other tenants or occupants of the Buildings and/or the Park. Tenant shall not, in any event or circumstance, be permitted to offset or otherwise credit against any payments of Rent required herein for matters for which Landlord may be liable hereunder. Landlord and its authorized representatives shall not be liable for any interference with light or air, or, subject to the provisions of Section 5 above, for any latent defect in the Premises or the Buildings. To the fullest extent permitted by law and except to the extent of damage resulting from the negligence or willful misconduct of Landlord or its authorized representatives, Tenant agrees that neither Landlord nor any of Landlord's lender(s), members, partners, employees, representatives, legal representatives, successors and assigns shall at any time or to any extent whatsoever be liable, responsible or in any way accountable for any loss, liability, injury, death or damage to persons or property which at any time may be suffered or sustained by Tenant or by any person(s) whomsoever who may at any time be using, occupying or visiting the Premises, the Buildings or the Park.

Except to the extent of damage resulting from the negligence or willful misconduct of Tenant or any of Tenant's Representatives, Landlord agrees to protect, defend (with counsel acceptable to Tenant) and hold Tenant and Tenant's employees and representatives (collectively, the "Tenant Indemnitees") harmless and indemnify the Tenant Indemnitees from and against all liabilities, damages, claims, losses, judgments, charges and expenses (including reasonable attorneys' fees, costs of court and expenses necessary in the prosecution or defense of any litigation including the enforcement of this provision) resulting from Landlord's or its authorized agents' negligence or willful misconduct. Landlord agrees that the obligations of Landlord herein shall survive the expiration or earlier termination of this Lease.

15. ASSIGNMENT AND SUBLEASING:

15.1 PROHIBITION: Except as expressly set forth herein with respect to a Related Entity, Tenant shall not assign, mortgage, hypothecate, encumber, grant any license or concession, pledge or otherwise transfer this Lease (collectively, "assignment"), in whole or in part, whether voluntarily or involuntarily or by operation of law, nor sublet or permit occupancy by any person other than Tenant of all or any portion of the Premises without first obtaining the prior written consent of Landlord, which consent shall not be unreasonably withheld. Tenant hereby agrees that Landlord may withhold its consent to any proposed sublease or assignment if the proposed sublessee or assignee or its business is subject to compliance with additional requirements of the ADA (defined below) beyond those requirements which are applicable to Tenant, unless the proposed sublessee or assignee shall (a) first deliver plans and specifications for complying with such additional requirements and obtain Landlord's written consent thereto, which consent shall not be unreasonably withheld, and (b) comply with all Landlord's conditions for or contained in such consent, including without limitation, requirements for security to assure the lien-free completion of such improvements. If Tenant seeks to sublet or assign all or any portion of the Premises, Tenant shall deliver to Landlord at least thirty (30) days prior to the proposed commencement of the sublease or assignment (the "Proposed Effective Date") the following: (i) the name of the proposed assignee or sublessee; (ii) such information as to such assignee's or sublessee's financial responsibility and standing as Landlord may reasonably require; and (iii) the aforementioned plans and specifications, if any. Within ten (10) days after Landlord's receipt of a written request from Tenant that Tenant seeks to sublet or assign all or any portion of the Premises, Landlord shall deliver to Tenant a copy of Landlord's standard form of sublease or assignment agreement (as applicable), which instrument shall be utilized for each proposed sublease or assignment (as applicable), and such instrument shall include a provision whereby the assignee or sublessee assumes all of Tenant's obligations hereunder, but with respect to a sublease only, to the extent applicable to the subleased portion of the Premises, and agrees to be bound by the terms hereof. As Additional Rent hereunder, Tenant shall pay to Landlord a fee in the amount of five hundred dollars (\$500) plus Tenant

shall reimburse Landlord for actual legal and other expenses incurred by Landlord in connection with any actual or proposed assignment or subletting. Notwithstanding anything to the contrary contained herein, if (I) the Term of the First Lease has expired or the First Lease has been earlier terminated for any reason whatsoever, in whole or in part, and (II) Tenant proposes to sublease or assign this Lease to a party other than a Related Entity, then for the time period during which there is any vacancy in Building A and/or Building B (as referred to in the First Lease) Landlord shall have the right, to be exercised by giving written notice to Tenant, to either (1) recapture the space described in the proposed sublease or assignment, or (2) consent to such proposed sublease or assignment, in which event Tenant shall pay Landlord monthly, as Additional Rent, at the same time as the monthly installments of Rent are payable hereunder, fifty percent (50%) of the excess of each such payment of rent or other consideration in excess of the Rent called for hereunder, after deduction of the actual brokerage commission (if any) paid by Tenant in connection with such proposed sublease or assignment, where the rent or other consideration provided for in the proposed sublease or assignment either initially or over the term of the sublease or assignment exceeds the Rent or pro rata portion of the Rent, as the case may be, for such space reserved in the Lease. If such recapture notice is given, it shall serve to terminate this Lease with respect to the proposed sublease or assignment space, or, if the proposed sublease or assignment space covers all the Premises, it shall serve to terminate the entire term of this Lease in either case, as of the Proposed Effective Date, with respect to such space. However, no termination of this Lease with respect to part or all of the Premises shall become effective without the prior written consent, where necessary, of the holder of each deed of trust encumbering the Premises or any part thereof. If this Lease is terminated pursuant to the foregoing with respect to less than the entire Premises, the Rent shall be adjusted on the basis of the proportion of square feet retained by Tenant to the square feet originally demised and this Lease as so amended shall continue thereafter in full force and effect. Each permitted assignee or sublessee, including without limitation, a Related Entity, shall assume and be deemed to assume this Lease and shall be and remain liable jointly and severally with Tenant for payment of Rent and for the due performance of, and compliance with all the terms, covenants, conditions and agreements herein contained on Tenant's part to be performed or complied with, for the term of this Lease. No assignment or subletting shall affect the continuing primary liability of Tenant (which, following assignment, shall be joint and several with the assignee), and Tenant shall not be released from performing any of the terms, covenants and conditions of this Lease. Tenant hereby acknowledges and agrees that it understands that Landlord's accounting department may process and accept Rent payments without verifying that such payments are being made by Tenant, a permitted sublessee or a permitted assignee in accordance with the provisions of this Lease. Although such payments may be processed and accepted by such accounting department personnel, any and all actions or omissions by the personnel of Landlord's accounting department shall not be considered as acceptance by Landlord of any proposed assignee or sublessee nor shall such actions or omissions be deemed to be a substitute for the requirement that Tenant obtain Landlord's prior written consent to any such subletting or assignment, and any such actions or omissions by the personnel of Landlord's accounting department shall not be considered as a voluntary relinquishment by Landlord of any of its rights hereunder nor shall any voluntary relinquishment of such rights be inferred therefrom. For purposes hereof, and except with respect to a Related Entity, in the event Tenant is a corporation, partnership, joint venture, trust or other entity other than a natural person, any change in the direct or indirect ownership of Tenant (whether pursuant to one or more transfers other than publicly traded stock which does not confer upon any party or parties control over Tenant) which results in a change of more than fifty percent (50%) in the direct or indirect ownership of Tenant shall be deemed to be an assignment within the meaning of this Section 15 and shall be subject to all the provisions hereof. Except for a permissible assignment to a Related Entity, any and all options, first rights of refusal, tenant improvement allowances and other similar rights granted to Tenant in this Lease, if any, shall not be assignable by Tenant unless expressly authorized in writing by Landlord, at Landlord's reasonable discretion. Notwithstanding anything to the contrary contained herein, so long as Tenant delivers to Landlord (x) at least fifteen (15) business days prior written notice of its intention to assign or sublease the Premises to any Related Entity, which notice shall set forth the name of the Related Entity, (y) a copy of the proposed agreement pursuant to which such assignment or sublease shall be effectuated, and (z) such other information concerning the Related Entity as Landlord may reasonably require, including without limitation, information regarding any change in the proposed use of any portion of the Premises and any financial information with respect to such Related Entity, and so long as Landlord approves, in writing, of any change in the proposed use of the subject portion of the Premises, then Tenant may assign this Lease or sublease any portion of the Premises (X) to any Related Entity, or (Y) in connection with any merger, consolidation or sale of substantially all of the assets of Tenant, without having to obtain the prior written consent of Landlord thereto. For purposes of this Lease the term "Related Entity" shall mean and refer to any corporation or entity which controls, is controlled by or is under common control with Tenant, as all of such terms are customarily used in the industry, and with an equal or greater net worth as Tenant has as of the proposed transfer date.

15.2 EXCESS SUBLEASE RENTAL OR ASSIGNMENT CONSIDERATION:

Notwithstanding anything to the contrary contained herein, the provisions of this Section 15.2 are subject to the provisions of Section 15.1 above and in the event of any conflict between such provisions, the terms and provisions of Section 15.1 hereof shall control and prevail. During the initial term of this Lease only, in the event of any sublease or assignment of all or any portion of the Premises to a party other than a Related Entity, which sublease or assignment only relates to the initial term of this Lease and is expressly approved by Landlord, and where the rent or other consideration provided for in the sublease or assignment either initially or over the term of the sublease or assignment exceeds the Rent or pro rata portion of the Rent, as the case may be, for such space reserved in the Lease, Tenant shall pay the Landlord monthly, as Additional Rent, at the same time as the monthly installments of Rent are payable hereunder, fifty percent (50%) of the excess of each such payment of rent or other consideration in excess of the Rent called for hereunder, after deduction of the actual brokerage commission (if any) paid by Tenant in connection with such proposed sublease or assignment. During any renewal or option terms of this Lease, in the event of any sublease or assignment of all or any portion of the Premises to a party other than a Related Entity, which sublease or assignment relates to such renewal or option term of this Lease and is expressly

approved by Landlord, and where the rent or other consideration provided for in the sublease or assignment either initially or over the term of the sublease or assignment exceeds the Rent or pro rata portion of the Rent, as the case may be, for such space reserved in the Lease, Tenant shall pay the Landlord monthly, as Additional Rent, at the same time as the monthly installments of Rent are payable hereunder, fifty percent (50%) of the excess of each such payment of rent or other consideration in excess of the Rent called for hereunder, after deduction of the actual brokerage commission (if any) paid by Tenant in connection with such proposed sublease or assignment.

15.3 WAIVER: Notwithstanding any assignment or sublease, or any indulgences, waivers or extensions of time granted by Landlord to any assignee or sublessee, or failure by Landlord to take action against any assignee or sublessee, Tenant agrees that Landlord may, at its option, proceed against Tenant without having taken action against or joined such assignee or sublessee, except that Tenant shall have the benefit of any indulgences, waivers and extensions of time granted to any such assignee or sublessee.

16. AD VALOREM TAXES: Prior to delinquency, Tenant shall pay all taxes and assessments levied upon trade fixtures, alterations, additions, improvements, inventories and personal property located and/or installed on or in the Premises by, or on behalf of, Tenant; and if requested by Landlord, Tenant shall promptly deliver to Landlord copies of receipts for payment of all such taxes and assessments. To the extent any such taxes are not separately assessed or billed to Tenant, Tenant shall pay the amount thereof as invoiced by Landlord.

17. SUBORDINATION: Landlord hereby represents to Tenant that as of the Lease Date there does not exist a lien of a mortgage or deed of trust on all or any portion of the Premises. Without the necessity of any additional document being executed by Tenant for the purpose of effecting a subordination, and at the election of Landlord or any bona fide mortgagee or deed of trust beneficiary with a lien on all or any portion of the Premises or any ground lessor with respect to the land of which the Premises are a part, the rights of Tenant under this Lease and this Lease shall be subject and subordinate at all times to: (i) all ground leases or underlying leases which may now exist or hereafter be executed affecting the Buildings or the land upon which the Buildings are situated or both provided such ground lease includes a provision that Tenant's use, occupancy or quiet enjoyment of the Premises will not be disturbed so long as Tenant is not in default of the terms and provisions of this Lease, and (ii) the lien of any mortgage or deed of trust which may now exist or hereafter be executed in any amount for which the Buildings, the Lot, ground leases or underlying leases, or Landlord's interest or estate in any of said items is specified as security.

Notwithstanding the foregoing, Landlord or any such ground lessor, mortgagee, or any beneficiary shall have the right to subordinate or cause to be subordinated any such ground leases or underlying leases or any such liens to this Lease. If any ground lease or underlying lease terminates for any reason or any mortgage or deed of trust is foreclosed or a conveyance in lieu of foreclosure is made for any reason, Tenant shall, notwithstanding any subordination and upon the request of such successor to Landlord, attorn to and become the Tenant of the successor in interest to Landlord, provided such successor in interest will not disturb Tenant's use, occupancy or quiet enjoyment of the Premises so long as Tenant is not in default of the terms and provisions of this Lease. The successor in interest to Landlord following foreclosure, sale or deed in lieu thereof shall not be (a) liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) subject to any offsets or defenses which Tenant might have against any prior lessor; or (c) bound by prepayment of more than one

(1) month's Rent. Tenant covenants and agrees to execute (and acknowledge if required by Landlord, any lender or ground lessor) and deliver, within ten (10) business days of a demand or request by Landlord and in the form requested by Landlord, ground lessor, mortgagee or beneficiary, any additional documents evidencing the priority or subordination of this Lease with respect to any such ground leases or underlying leases or the lien of any such mortgage or deed of trust. Tenant's failure to timely execute and deliver such additional documents shall, at Landlord's option, constitute a material default hereunder. Tenant's agreement to subordinate this Lease to any future ground or underlying lease or any future deed of trust or mortgage pursuant to the foregoing provisions of the Section 17 is conditioned upon Landlord delivering to Tenant from the lessor under such future ground or underlying lease or the holder of any such mortgage or deed of trust, a non-disturbance agreement agreeing, among other things, that Tenant's right to possession of the Premises pursuant to the terms and conditions of this Lease shall not be disturbed provided Tenant is not in default under this Lease beyond the applicable notice and cure periods hereunder.

18. RIGHT OF ENTRY: Tenant grants Landlord or its agents the right to enter the Premises at all reasonable times, upon 24 hours advance notice to Tenant, for purposes of inspection, exhibition, posting of notices, repair or alteration. At Landlord's option, Landlord shall at all times have and retain a key with which to unlock all the doors not conspicuously designated as restricted access areas for security reasons in, upon and about the Premises, excluding Tenant's vaults and safes. It is further agreed that Landlord shall have the right to use any and all means Landlord deems necessary to enter the Premises in an emergency. Landlord shall also have the right to place "for sale" signs in the Common Areas at any time during the Term of this Lease. Landlord shall also have the right to place "for rent" or "for lease" signs (which signage shall include a phrase to the effect that Tenant is moving to larger quarters) on the outside of the Premises and/or in the Common Areas at any time during the last nine (9) months of the Term or the earlier termination thereof. Tenant hereby waives any claim from damages or for any injury or inconvenience to or interference with Tenant's business, or any other loss occasioned thereby except for any claim for any of the foregoing arising out of the negligence or willful misconduct of Landlord or its authorized representatives.

19. ESTOPPEL CERTIFICATE: Tenant shall execute (and acknowledge if required by any lender or ground lessor) and deliver to Landlord, within not less than ten

(10) business days after Landlord provides such to Tenant, a statement in writing certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification), the date to which the Rent and other charges are paid in advance, if any, acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder or specifying such defaults as are claimed, and such other matters as Landlord may reasonably require. Any such statement may be conclusively relied upon by Landlord and any prospective purchaser or encumbrancer of the Premises. Tenant's failure to deliver such statement within such time shall be conclusive upon the Tenant that (a) this Lease is in full force and effect, without modification except as may be represented by Landlord; (b) there are no uncured defaults in Landlord's performance; and (c) not more than one month's Rent has been paid in advance, except in those instances when Tenant pays Rent quarterly in advance pursuant to Section 8 hereof, then not more than three month's Rent has been paid in advance. Failure by Tenant to so deliver such certified estoppel certificate shall be a material default of the provisions of this Lease. Tenant shall be liable to Landlord, and shall indemnify Landlord from and against any loss, cost, damage or expense, incidental, consequential, or otherwise, resulting from any failure of Tenant to execute or deliver to Landlord any such certified estoppel certificate.

20. TENANT'S DEFAULT: The occurrence of any one or more of the following events shall, at Landlord's option, constitute a material default by Tenant of this Lease:

20.1 The abandonment of the Premises by Tenant or the vacation of the Premises by Tenant which would cause any insurance policy to be invalidated or otherwise lapse. Tenant agrees to notice and service of notice as provided for in this Lease and waives any right to any other or further notice or service of notice which Tenant may have under any statute or law now or hereafter in effect;

20.2 The failure by Tenant to make any payment of Rent, Additional Rent or any other payment required hereunder within three (3) days of Landlord's delivery of written notice that said payment is due. Tenant agrees to notice and service of notice as provided for in this Lease and waives any right to any other or further notice or service of notice which Tenant may have under any statute or law now or hereafter in effect;

20.3 The failure by Tenant to observe, perform or comply with any of the conditions, covenants or provisions of this Lease (except failure to make any payment of Rent and/or Additional Rent) and such failure is not cured within
(i) thirty (30) days of the date on which Landlord delivers written notice of such failure to Tenant, complying with the notice requirements of Section 31.10 hereof, for all failures other than with respect to Hazardous Materials, and
(ii) ten (10) days of the date on which Landlord delivers written notice of such failure to Tenant for all failures in any way related to Hazardous Materials. However, Tenant shall not be in default of its obligations hereunder if such failure cannot reasonably be cured within such thirty (30) or ten (10) day period, as applicable, and Tenant promptly commences, and thereafter diligently proceeds with same to completion, all actions necessary to cure such failure as soon as is reasonably possible, but in no event shall the completion of such cure be later than sixty (60) days after the date on which Landlord delivers to Tenant written notice of such failure, unless Landlord, acting reasonably and in good faith, otherwise expressly agrees in writing to a longer period of time based upon the circumstances relating to such failure as well as the nature of the failure and the nature of the actions necessary to cure such failure;

20.4 The making of a general assignment by Tenant for the benefit of creditors, the filing of a voluntary petition by Tenant or the filing of an involuntary petition by any of Tenant's creditors seeking the rehabilitation, liquidation, or reorganization of Tenant under any law relating to bankruptcy, insolvency or other relief of debtors and, in the case of an involuntary action, the failure to remove or discharge the same within sixty (60) days of such filing, the appointment of a receiver or other custodian to take possession of substantially all of Tenant's assets or this leasehold, Tenant's insolvency or inability to pay Tenant's debts or failure generally to pay Tenant's debts when due, any court entering a decree or order directing the winding up or liquidation of Tenant or of substantially all of Tenant's assets, Tenant taking any action toward the dissolution or winding up of Tenant's affairs, the cessation or suspension of Tenant's use of the Premises, or the attachment, execution or other judicial seizure of substantially all of Tenant's assets or this leasehold;

20.5 Tenant's use or storage of Hazardous Materials in, on or about the Premises, the Buildings, the Lot and/or the Park other than as expressly permitted by the provisions of Section 29 below;

20.6 The intentional making of any material misrepresentation or omission by Tenant in any materials delivered by or on behalf of Tenant to Landlord pursuant to this Lease; or

20.7 A material default by Tenant of any of the terms, provisions or conditions of that certain Lease Agreement, of even date herewith, by and between Landlord and Tenant for the leasing by Tenant of those two (2) certain buildings situated within the Park and referred to as Buildings A and B (the "First Lease").

21. REMEDIES FOR TENANT'S DEFAULT:

21.1 LANDLORD'S RIGHTS: In the event of Tenant's material default or breach of the Lease, Landlord may, after expiration of any applicable cure period, terminate Tenant's right to possession of the Premises by any lawful means in which case upon delivery of written notice by Landlord this Lease shall terminate on the date specified by Landlord in such notice and Tenant shall immediately surrender possession of the Premises

to Landlord. In addition, the Landlord shall have the immediate right of re-entry whether or not this Lease is terminated, and if this right of re-entry is exercised following abandonment of the Premises by Tenant, Landlord may consider any personal property belonging to Tenant and left on the Premises to also have been abandoned. No re-entry or taking possession of the Premises by Landlord pursuant to this Section 21 shall be construed as an election to terminate this Lease unless a written notice of such intention is given to Tenant. If Landlord relets the Premises or any portion thereof, (i) Tenant shall be liable immediately to Landlord for all costs Landlord incurs in reletting the Premises or any part thereof, including, without limitation, broker's commissions, expenses of cleaning, redecorating, and further improving the Premises and other similar costs (collectively, the "Reletting Costs"), and (ii) the rent received by Landlord from such reletting shall be applied to the payment of, first, any indebtedness from Tenant to Landlord other than Base Rent, Operating Expenses, Tax Expenses, Common Area Utility Costs, and Utility Expenses; second, all costs including maintenance, incurred by Landlord in reletting; and, third, Base Rent, Operating Expenses, Tax Expenses, Common Area Utility Costs, Utility Expenses, and all other sums due under this Lease. Any and all of the Reletting Costs shall be fully chargeable to Tenant and shall not be prorated or otherwise amortized in relation to any new lease for the Premises or any portion thereof. After deducting the payments referred to above, any sum remaining from the rental Landlord receives from reletting shall be held by Landlord and applied in payment of future Rent as Rent becomes due under this Lease. In no event shall Tenant be entitled to any excess rent received by Landlord. Reletting may be for a period shorter or longer than the remaining term of this Lease. No act by Landlord other than giving written notice to Tenant shall terminate this Lease. Acts of maintenance, efforts to relet the Premises or the appointment of a receiver on Landlord's initiative to protect Landlord's interest under this Lease shall not constitute a termination of Tenant's right to possession. So long as this Lease is not terminated, Landlord shall have the right to remedy any default of Tenant, to maintain or improve the Premises, to cause a receiver to be appointed to administer the Premises and new or existing subleases and to add to the Rent payable hereunder all of Landlord's reasonable costs in so doing, with interest at the maximum rate permitted by law from the date of such expenditure.

21.2 DAMAGES RECOVERABLE: If Tenant breaches this Lease and abandons the Premises before the end of the Term, or if Tenant's right to possession is terminated by Landlord because of a breach or default of the Lease, then in either such case, Landlord may recover from Tenant all damages suffered by Landlord as a result of Tenant's failure to perform its obligations hereunder, including, but not limited to, the unamortized portion of any broker's or leasing agent's commission incurred with respect to the leasing of the Premises to Tenant for the balance of the Term of the Lease remaining after the date on which Tenant is in default of its obligations hereunder to the extent such sums are not already included as part of the calculation of damages, and all Reletting Costs, and the worth at the time of the award (computed in accordance with paragraph (3) of Subdivision (a) of Section 1951.2 of the California Civil Code) of the amount by which the Rent then unpaid hereunder for the balance of the Lease Term exceeds the amount of such loss of Rent for the same period which Tenant proves could be reasonably avoided by Landlord and in such case, Landlord prior to the award, may relet the Premises for the purpose of mitigating damages suffered by Landlord because of Tenant's failure to perform its obligations hereunder; provided, however, that even though Tenant has abandoned the Premises following such breach, this Lease shall nevertheless continue in full force and effect for as long as Landlord does not terminate Tenant's right of possession, and until such termination, Landlord shall have the remedy described in Section 1951.4 of the California Civil Code (Landlord may continue this Lease in effect after Tenant's breach and abandonment and recover Rent as it becomes due, if Tenant has the right to sublet or assign, subject only to reasonable limitations) and may enforce all its rights and remedies under this Lease, including the right to recover the Rent from Tenant as it becomes due hereunder. The "worth at the time of the award" within the meaning of Subparagraphs (a)(1) and (a)(2) of Section 1951.2 of the California Civil Code shall be computed by allowing interest at the rate of ten percent (10%) per annum. Tenant waives redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179, or under any other present or future law, in the event Tenant is evicted or Landlord takes possession of the Premises by reason of any default of Tenant hereunder.

21.3 RIGHTS AND REMEDIES CUMULATIVE: The foregoing rights and remedies of Landlord are not exclusive; they are cumulative in addition to any rights and remedies now or hereafter existing at law, in equity by statute or otherwise, or to any equitable remedies Landlord may have, and to any remedies Landlord may have under bankruptcy laws or laws affecting creditor's rights generally.

21.4 WAIVER OF A DEFAULT: The waiver by Landlord of any material default or breach of any provision of this Lease shall not be deemed or construed a waiver of any other material breach or default by Tenant hereunder or of any subsequent material breach or default of this Lease, except for the default specified in the waiver.

22. HOLDING OVER: If Tenant holds possession of the Premises after the expiration of the Term of this Lease with Landlord's consent, Tenant shall become a tenant from month-to-month upon the terms and provisions of this Lease, provided the monthly Base Rent during such hold over period shall be 125% of the Base Rent due on the last month of the Lease Term, payable in advance on or before the first day of each month. Acceptance by Landlord of the monthly Base Rent without the additional twenty-five percent (25%) increase of Base Rent shall not be deemed or construed as a waiver by Landlord of any of its rights to collect the increased amount of the Base Rent as provided herein at any time. Such month-to-month tenancy shall not constitute a renewal or extension for any further term. All options, if any, granted under the terms of this Lease shall be deemed automatically terminated and be of no force or effect during said month-to-month tenancy. Tenant shall continue in possession until such tenancy shall be terminated by either Landlord or Tenant giving written notice of termination to the other party at least thirty (30) days prior to the effective date of termination.

This paragraph shall not be construed as Landlord's permission for Tenant to hold over. Acceptance of Base Rent by Landlord following expiration or termination of this Lease shall not constitute a renewal of this Lease. If Tenant provides Landlord with at least twelve (12) months advance written notice of Tenant's intention to hold over and the anticipated hold over period of time, Landlord shall not be entitled to any consequential damages arising from such hold over for the hold over period specified in such written notice; provided, however, the foregoing shall not be considered as Landlord's waiver of the requirement for Tenant to pay such additional twenty-five percent (25%) increase of Base Rent during such holdover period as contemplated above.

23. **LANDLORD'S DEFAULT:** Landlord shall not be deemed in breach or default of this Lease unless Landlord fails within a reasonable time to perform an obligation required to be performed by Landlord hereunder. For purposes of this provision, a reasonable time shall not be less than thirty (30) days after receipt by Landlord of written notice specifying the nature of the obligation Landlord has not performed (except for any items of repair or maintenance for which a prompter response would be reasonably necessary or appropriate given the then existing circumstances); provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days, after receipt of written notice, is reasonably necessary for its performance, then Landlord shall not be in breach or default of this Lease if performance of such obligation is commenced within such thirty (30) day period and thereafter diligently pursued to completion.

24. **PARKING:** Tenant shall have a license to use the number of undesignated and nonexclusive parking spaces set forth on Page 1. Landlord shall exercise reasonable efforts to insure that such spaces are available to Tenant for its use, but Landlord shall not be required to enforce Tenant's right to use the same. Tenant shall have the exclusive right to use up to ten (10) parking spaces, in locations designated by Landlord, in close proximity to the entrance of each of the Buildings for Tenant's exclusive use for visitor parking; provided, Tenant shall be solely responsible for the payment of all costs associated with such striping and designation and Tenant's General Contractor shall perform the work associated therewith as part of the Tenant Improvements.

25. **SALE OF PREMISES:** In the event of any sale of the Premises by Landlord or the cessation otherwise of Landlord's interest therein, Landlord shall be and is hereby entirely released from any and all of its obligations to perform or further perform under this Lease and from all liability hereunder accruing or arising from and after the date of such sale; and the purchaser, at such sale or any subsequent sale of the Premises shall be deemed, without any further agreement between the parties or their successors in interest or between the parties and any such purchaser, to have assumed and agreed to carry out any and all of the covenants and obligations of the Landlord under this Lease except for those obligations of Landlord which have accrued prior to the date of such transfer. For purposes of this Section 25, the term "Landlord" means only the owner and/or agent of the owner as such parties exist as of the date on which Tenant executes this Lease. A ground lease or similar long term lease by Landlord of the entire Buildings, of which the Premises are a part, shall be deemed a sale within the meaning of this Section 25. Tenant agrees to attorn to such new owner provided such new owner does not disturb Tenant's use, occupancy or quiet enjoyment of the Premises so long as Tenant is not in default of any of the provisions of this Lease.

26. **WAIVER:** No delay or omission in the exercise of any right or remedy of Landlord on any default by Tenant shall impair such a right or remedy or be construed as a waiver. The subsequent acceptance of Rent by Landlord after breach by Tenant of any covenant or term of this Lease shall not be deemed a waiver of such breach, other than a waiver of timely payment for the particular Rent payment involved, and shall not prevent Landlord from maintaining an unlawful detainer or other action based on such breach. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly Rent and other sums due hereunder shall be deemed to be other than on account of the earliest Rent or other sums due, nor shall any endorsement or statement on any check or accompanying any check or payment be deemed an accord and satisfaction; and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or other sum or pursue any other remedy provided in this Lease. No failure, partial exercise or delay on the part of the Landlord in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

27. **CASUALTY DAMAGE:** If either of the Buildings or any part thereof shall be damaged by fire or other casualty, Tenant shall give prompt written notice thereof to Landlord. In case either of the Buildings shall be so damaged by fire or other casualty that fifty percent (50%) or more of the affected Building(s) requires substantial alteration or reconstruction, in Landlord's reasonable opinion, Landlord may, at its option, terminate this Lease with respect only to the affected Building by notifying Tenant in writing of such termination within ninety (90) days after the date of such damage, in which event the Rent shall be abated as of the date of such damage but only to the extent Tenant is not able to conduct its operations in the affected Building(s). If either of the Buildings or any part thereof shall be damaged by fire or other casualty such that the reparation of such damage or casualty shall require more than one hundred eighty (180) days to complete (subject to extension for Force Majeure Delays or Tenant Delays), then either Tenant or Landlord may terminate this Lease with respect only to the affected Building by notifying the other party of such election to terminate this Lease within thirty (30) days after the date on which it is determined by Landlord of the length of time necessary to substantially complete such repairs, in which event the Rent shall be abated as of the date of such damage but only to the extent Tenant is not able to conduct its operations in the affected Building(s). If neither party exercises their rights to so elect to terminate this Lease with respect only to the affected Building in accordance with the aforesaid provisions, and provided insurance proceeds are available to fully repair the damage (excluding any

deductible), Landlord shall within ninety (90) days after the date of such damage commence to repair and restore the affected Building(s) and shall proceed with reasonable diligence to restore the affected Building(s) (except that Landlord shall not be responsible for delays outside its control) to substantially the same condition in which it was immediately prior to the happening of the casualty; provided, Landlord shall not be required to rebuild, repair, or replace any part of Tenant's furniture, furnishings or fixtures and equipment removable by Tenant or any improvements, alterations or additions installed by or for the benefit of Tenant under the provisions of this Lease. Landlord shall not in any event be required to spend for such work an amount in excess of the insurance proceeds (excluding any deductible) actually received by Landlord as a result of the fire or other casualty. Landlord shall not be liable for any inconvenience or annoyance to Tenant, injury to the business of Tenant, loss of use of any part of the Premises by the Tenant or loss of Tenant's personal property resulting in any way from such damage or the repair thereof, except that, subject to the provisions of the next sentence, Landlord shall allow Tenant a fair diminution of Rent during the time and to the extent the affected Building(s) is unfit for occupancy. Notwithstanding anything to the contrary contained herein, if either of the Buildings or any other portion thereof be damaged by fire or other casualty resulting from the intentional or negligent acts or omissions of Tenant or any of Tenant's Representatives, (i) the Rent shall not be diminished during the repair of such damage, (ii) Tenant shall not have any right to terminate this Lease with respect only to the affected Building due to the occurrence of such casualty or damage, and (iii) Tenant shall be liable to Landlord for the cost and expense of the repair and restoration of all or any portion of the affected Building(s) caused thereby (including, without limitation, any deductible) to the extent such cost and expense is not covered by insurance proceeds. In the event the holder of any indebtedness secured by the affected Building(s) requires that the insurance proceeds be applied to such indebtedness, then Landlord shall have the right to terminate this Lease with respect only to the affected Building by delivering written notice of termination to Tenant within thirty (30) days after the date of notice to Tenant of any such event, whereupon all rights and obligations shall cease and terminate hereunder with respect only to the affected Building except for those obligations expressly intended to survive any such termination of this Lease. Any notices required to be delivered pursuant to the provisions of this Section 27 shall be in compliance with the notice requirements of Section 31.10 of this Lease. Except as otherwise provided in this Section 27, Tenant hereby waives the provisions of Sections 1932(2.), 1933 (4.), 1941 and 1942 of the California Civil Code.

28. CONDEMNATION: If twenty-five percent (25%) or more of the Premises is condemned by eminent domain, inversely condemned or sold in lieu of condemnation for any public or quasi-public use or purpose ("Condemned"), then Tenant or Landlord may terminate this Lease as of the date when physical possession of the Premises is taken and title vests in such condemning authority, and Rent shall be adjusted to the date of termination. Tenant shall not because of such condemnation assert any claim against Landlord or the condemning authority for any compensation because of such condemnation, and Landlord shall be entitled to receive the entire amount of any award without deduction for any estate of interest or other interest of Tenant; provided, however, the foregoing provisions shall not preclude Tenant, at Tenant's sole cost and expense, from obtaining any separate award to Tenant for loss of or damage to Tenant's trade fixtures and removable personal property or for damages for cessation or interruption of Tenant's business provided such award is separate from Landlord's award and provided further such separate award does not diminish nor impair the award otherwise payable to Landlord. In addition to the foregoing, Tenant shall be entitled to seek compensation for the relocation costs recoverable by Tenant pursuant to the provisions of California Government Code Section 7262. If a substantial portion of the Premises, Buildings or the Lot is so Condemned, Landlord or Tenant may terminate this Lease. If neither party elects to terminate this Lease, Landlord shall, if necessary, promptly proceed to restore the Premises or the Buildings to substantially its same condition prior to such partial condemnation, allowing for the reasonable effects of such partial condemnation, and a proportionate allowance shall be made to Tenant, as reasonably determined by Landlord, for the Rent corresponding to the time during which, and to the part of the Premises of which, Tenant is deprived on account of such partial condemnation and restoration. Landlord shall not be required to spend funds for restoration in excess of the amount received by Landlord as compensation awarded.

29. ENVIRONMENTAL MATTERS/HAZARDOUS MATERIALS:

29.1 HAZARDOUS MATERIALS DISCLOSURE CERTIFICATE: Prior to executing this Lease, Tenant has completed, executed and delivered to Landlord Tenant's initial Hazardous Materials Disclosure Certificate (the "Initial HazMat Certificate"), a copy of which is attached hereto as Exhibit G and incorporated herein by this reference. Tenant covenants, represents and warrants to Landlord that the information on the Initial HazMat Certificate is true and correct, to the best of Tenant's knowledge, and accurately describes the use(s) of Hazardous Materials which will be made and/or used on the Premises by Tenant. Commencing with the date which is one year from the Commencement Date and continuing every year thereafter, Tenant shall complete, execute, and deliver to Landlord, a Hazardous Materials Disclosure Certificate ("the "HazMat Certificate") describing Tenant's present use of Hazardous Materials on the Premises, and any other reasonably necessary documents as requested by Landlord. The HazMat Certificate required hereunder shall be in substantially the form as that which is attached hereto as Exhibit E. Landlord hereby acknowledges and agrees that as of the date on which both parties execute and deliver this Lease, Landlord has approved the Initial HazMat Certificate; however, any such approval by Landlord shall not be construed to relieve Tenant from its obligations and/or any liabilities under the provisions of this Section 29.

29.2 DEFINITION OF HAZARDOUS MATERIALS: As used in this Lease, the term Hazardous Materials shall mean and include (a) any hazardous or toxic wastes, materials or substances, and other pollutants or contaminants, which are or become regulated by any Environmental Laws; (b) petroleum, petroleum by

products, gasoline, diesel fuel, crude oil or any fraction thereof; (c) asbestos and asbestos containing material, in any form, whether friable or non-friable;

(d) polychlorinated biphenyls; (e) radioactive materials; (f) lead and lead-containing materials; (g) any other material, waste or substance displaying toxic, reactive, ignitable or corrosive characteristics, as all such terms are used in their broadest sense, and are defined or become defined by any Environmental Law (defined below); or (h) any materials which cause or threatens to cause a nuisance upon or waste to any portion of the Premises, the Buildings, the Lot, the Park or any surrounding property; or poses or threatens to pose a hazard to the health and safety of persons on the Premises or any surrounding property.

29.3 PROHIBITION; ENVIRONMENTAL LAWS: Except for and to the extent of the type and quantities of Hazardous Materials specified in the Initial HazMat Certificate, Tenant shall not be entitled to use nor store any Hazardous Materials on, in, or about the Premises, the Buildings, the Lot and the Park, or any portion of the foregoing, without, in each instance, obtaining Landlord's prior written consent thereto. If Landlord consents to any such usage or storage, then Tenant shall be permitted to use and/or store only those Hazardous Materials that are necessary for Tenant's business and to the extent disclosed in the HazMat Certificate and as expressly approved by Landlord in writing, provided that such usage and storage is only to the extent of the quantities of Hazardous Materials as specified in the then applicable HazMat Certificate as expressly approved by Landlord and provided further that such usage and storage is in full compliance with any and all local, state and federal environmental, health and/or safety-related laws, statutes, orders, standards, courts' decisions, ordinances, rules and regulations (as interpreted by judicial and administrative decisions), decrees, directives, guidelines, permits or permit conditions, currently existing and as amended, enacted, issued or adopted in the future which are or become applicable to Tenant or all or any portion of the Premises (collectively, the "Environmental Laws"). Tenant agrees that any changes to the type and/or quantities of Hazardous Materials specified in the most recent HazMat Certificate may be implemented only with the prior written consent of Landlord, which consent may be given or withheld in Landlord's reasonable discretion. Tenant shall not be entitled nor permitted to install any tanks under, on or about the Premises for the storage of Hazardous Materials without the express written consent of Landlord, which may be given or withheld in Landlord's sole discretion. Landlord shall have the right at all times during the Term of this Lease, upon reasonable advance notice to Tenant, to (i) inspect the Premises, (ii) conduct tests and investigations to determine whether Tenant is in compliance with the provisions of this Section 29, and (iii) request lists of all Hazardous Materials used, stored or otherwise located on, under or about the Premises, the Common Areas and/or the parking lots. The cost of all such inspections, tests and investigations shall be borne solely by Tenant, if Landlord reasonably determines that Tenant or any of Tenant's Representatives are directly or indirectly responsible in any manner for any contamination revealed by such inspections, tests and investigations. The aforementioned rights granted herein to Landlord and its representatives shall not create (a) a duty on Landlord's part to inspect, test, investigate, monitor or otherwise observe the Premises or the activities of Tenant and Tenant's Representatives with respect to Hazardous Materials, including without limitation, Tenant's operation, use and any remediation related thereto, or (b) liability on the part of Landlord and its representatives for Tenant's use, storage, disposal or remediation of Hazardous Materials, it being understood that Tenant shall be solely responsible for all liability in connection therewith.

29.4 TENANT'S ENVIRONMENTAL OBLIGATIONS: Tenant shall give to Landlord immediate verbal and follow-up written notice of any spills, releases, discharges, disposals, emissions, migrations, removals or transportation of Hazardous Materials by Tenant, Tenant's Representatives or by any other party in the event Tenant or Tenant's Representatives has actual knowledge thereof, on, under or about the Premises, or in any Common Areas or parking lots. Tenant, at its sole cost and expense, covenants and warrants to promptly investigate, clean up, remove, restore and otherwise remediate (including, without limitation, preparation of any feasibility studies or reports and the performance of any and all closures) any spill, release, discharge, disposal, emission, migration or transportation of Hazardous Materials arising from or related to the intentional or negligent acts or omissions of Tenant or Tenant's Representatives such that the affected portions of the Park and any adjacent property are returned to the condition existing prior to the appearance of such Hazardous Materials. Any such investigation, clean up, removal, restoration and other remediation shall only be performed after Tenant has obtained Landlord's prior written consent, which consent shall not be unreasonably withheld so long as such actions would not potentially have a material adverse long-term or short-term effect on the Premises, the Buildings, the Lot or the Park, or any portion of any of the foregoing. Notwithstanding the foregoing, Tenant shall be entitled to respond immediately to an emergency without first obtaining Landlord's prior written consent. Tenant, at its sole cost and expense, shall conduct and perform, or cause to be conducted and performed, all closures as required by any Environmental Laws or any agencies or other governmental authorities having jurisdiction thereof. If Tenant fails to so promptly investigate, clean up, remove, restore, provide closure or otherwise so remediate, Landlord may, but without obligation to do so, take any and all steps necessary to rectify the same and Tenant shall promptly reimburse Landlord, upon demand, for all reasonable costs and expenses to Landlord of performing investigation, clean up, removal, restoration, closure and remediation work. All such work undertaken by Tenant, as required herein, shall be performed in such a manner so as to enable Landlord to make full economic use of the Premises, the Buildings, the Lot and the Park after the satisfactory completion of such work.

29.5 ENVIRONMENTAL INDEMNITY: In addition to Tenant's obligations as set forth hereinabove but subject to the provisions of Section 29.7 below, Tenant agrees to, and shall, protect, indemnify, defend (with counsel reasonably acceptable to Landlord) and hold Landlord and Landlord's lenders, members, partners, property management company (if other than Landlord), agents, directors, officers, employees, representatives, contractors, shareholders, successors and assigns and each of their respective partners, directors, employees, representatives, agents, contractors, shareholders, successors and assigns harmless from and against any and all claims, judgments, damages, penalties, fines, liabilities, losses (including, without limitation, diminution in value

of the Premises, the Buildings, the Lot, the Park, or any portion of any of the foregoing, damages for the loss of or restriction on the use of rentable or usable space, and from any adverse impact of Landlord's marketing of any space within the Buildings and/or Park), suits, administrative proceedings and costs (including, but not limited to, reasonable attorneys' and consultant fees and court costs) arising at any time during or after the Term of this Lease in connection with or related to, directly or indirectly, the use, presence, transportation, storage, disposal, migration, removal, spill, release or discharge of Hazardous Materials on, in or about the Premises, or in any Common Areas or parking lots as a result (directly or indirectly) of the intentional or negligent acts or omissions of Tenant or Tenant's Representatives. Neither the written consent of Landlord to the presence, use or storage of Hazardous Materials in, on, under or about any portion of the Premises, the Buildings, the Lot and the Park, nor the strict compliance by Tenant with all Environmental Laws shall excuse Tenant from its obligations of indemnification pursuant hereto. Tenant shall not be relieved of its indemnification obligations under the provisions of this Section 29.5 as a result of Landlord's status as either an "owner" or "operator" under any Environmental Laws.

29.6 SURVIVAL: Tenant's obligations and liabilities pursuant to the provisions of this Section 29 shall survive the expiration or earlier termination of this Lease. If it is determined by Landlord that the condition of all or any portion of the Premises, the Buildings, the Lot and/or the Park is not in compliance with the provisions of this Lease with respect to Hazardous Materials, including without limitation all Environmental Laws at the expiration or earlier termination of this Lease, then at Landlord's sole option, Landlord may require Tenant to hold over possession of the Premises until Tenant can surrender the Premises to Landlord in the condition in which the Premises existed as of the Commencement Date and prior to the appearance of such Hazardous Materials except for reasonable wear and tear, including without limitation, the conduct or performance of any closures as required by any Environmental Laws. For purposes hereof, the term "reasonable wear and tear" shall not include any deterioration in the condition or diminution of the value of any portion of the Premises, the Buildings, the Lot and/or the Park in any manner whatsoever related to directly, or indirectly, Hazardous Materials. Any such holdover by Tenant will be with Landlord's consent, will not be terminable by Tenant in any event or circumstance and will otherwise be subject to the provisions of Section 22 of this Lease.

29.7 EXCULPATION OF TENANT: Tenant shall not be liable to Landlord for nor otherwise obligated to Landlord under any provision of the Lease with respect to the following: (i) any claim, remediation, obligation, investigation, obligation, liability, cause of action, attorney's fees, consultants' cost, expense or damage resulting from any Hazardous Materials present in, on or about the Premises or the Buildings to the extent not caused nor otherwise permitted, directly or indirectly, by Tenant or Tenant's Representatives; or (ii) the removal, investigation, monitoring or remediation of any Hazardous Material present in, on or about the Premises or the Buildings directly caused by any source, including third parties, other than Tenant or Tenant's Representatives; provided, however, Tenant shall be fully liable for and otherwise obligated to Landlord under the provisions of this Lease for all liabilities, costs, damages, penalties, claims, judgments, expenses (including without limitation, attorneys' and experts' fees and costs) and losses to the extent (a) Tenant or any of Tenant's Representatives contributes to the presence of such Hazardous Materials, or Tenant and/or any of Tenant's Representatives exacerbates the conditions caused by such Hazardous Materials, or (b) Tenant and/or Tenant's Representatives allows or permits persons over which Tenant or any of Tenant's Representatives has control, and/or for which Tenant or any of Tenant's Representatives are legally responsible for, to cause such Hazardous Materials to be present in, on, under, through or about any portion of the Premises, the Common Areas, the Buildings or the Park, or (c) Tenant and/or any of Tenant's Representatives does not take all reasonably appropriate actions to prevent such persons over which Tenant or any of Tenant's Representatives has control and/or for which Tenant or any of Tenant's Representatives are legally responsible from causing the presence of Hazardous Materials in, on, under, through or about any portion of the Premises, the Common Areas, the Buildings or the Park.

30. FINANCIAL STATEMENTS: Tenant, for the reliance of Landlord, any lender holding or anticipated to acquire a lien upon the Premises, the Buildings or the Park or any portion thereof, or any prospective purchaser of the Buildings or the Park or any portion thereof, within thirty (30) days after Landlord's request therefor, but not more often than once annually so long as Tenant is not in default of this Lease, shall deliver to Landlord the then current audited financial statements of Tenant (including interim periods following the end of the last fiscal year for which annual statements are available) which statements shall be prepared or compiled by a certified public accountant and shall present fairly the financial condition of Tenant at such dates and the result of its operations and changes in its financial positions for the periods ended on such dates. So long as Tenant is a publicly-traded entity, Tenant's publicly-filed financial statements shall be satisfactory for the satisfaction of the foregoing requirement. If an audited financial statement has not been prepared, Tenant shall provide Landlord with an unaudited financial statement and/or such other information, the type and form of which are acceptable to Landlord in Landlord's reasonable discretion, which reflects the financial condition of Tenant. If Landlord so requests, Tenant shall deliver to Landlord an opinion of a certified public accountant, including a balance sheet and profit and loss statement for the most recent prior year, all prepared in accordance with generally accepted accounting principles consistently applied. Any and all options granted to Tenant hereunder shall be subject to and conditioned upon Landlord's reasonable approval of Tenant's financial condition at the time of Tenant's exercise of any such option.

31. GENERAL PROVISIONS:

31.1 TIME. Time is of the essence in this Lease and with respect to each and all of its provisions in which performance is a factor.

31.2 SUCCESSORS AND ASSIGNS. The covenants and conditions herein contained, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of the parties hereto.

31.3 RECORDATION. Tenant shall not record this Lease or a short form memorandum hereof without the prior written consent of the Landlord.

31.4 LANDLORD'S PERSONAL LIABILITY. The liability of Landlord (which, for purposes of this Lease, shall include Landlord and the owner of the Buildings if other than Landlord) to Tenant for any default by Landlord under the terms of this Lease shall be limited to the actual interest of Landlord and its present or future partners or members in the Park, and Tenant agrees to look solely to the Park for satisfaction of any liability and shall not look to other assets of Landlord nor seek any recourse against the assets of the individual members, partners, directors, officers, shareholders, agents or employees of Landlord; it being intended that Landlord and the individual partners, members, directors, officers, shareholders, agents or employees of Landlord shall not be personally liable in any manner whatsoever for any judgment or deficiency. The liability of Landlord under this Lease is limited to its actual period of ownership of title to the Buildings, and Landlord shall be automatically released from further performance under this Lease and from all further liabilities and expenses accruing hereunder after the date of such transfer of Landlord's interest in the Buildings. The foregoing shall not in any way limit or impair Tenant's right, if any, to recover proceeds of insurance or any condemnation award in accordance with the provisions of this Lease.

31.5 SEPARABILITY. Any provisions of this Lease which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provisions hereof and such other provision shall remain in full force and effect.

31.6 CHOICE OF LAW. This Lease shall be governed by the laws of the State of California.

31.7 ATTORNEYS' FEES. In the event any dispute between the parties results in litigation or other proceeding or any other litigation involving the parties arises from this Lease, the prevailing party shall be reimbursed by the party not prevailing for all reasonable costs and expenses, including, without limitation, reasonable attorneys' and experts' fees and costs incurred by the prevailing party in connection with such litigation or other proceeding, and any appeal thereof. Such costs, expenses and fees shall be included in and made a part of the judgment recovered by the prevailing party, if any.

31.8 ENTIRE AGREEMENT. This Lease supersedes any prior agreements, representations, negotiations or correspondence between the parties, and contains the entire agreement of the parties on matters covered. No other agreement, statement or promise made by any party, that is not in writing and signed by all parties to this Lease, shall be binding.

31.9 WARRANTY OF AUTHORITY. On the date that Tenant executes this Lease, Tenant shall deliver to Landlord an original certificate of status for Tenant issued by the California Secretary of State or statement of partnership for Tenant recorded in the county in which the Premises are located, as applicable, and such other documents as Landlord may reasonably request with regard to the lawful existence of Tenant. Each person executing this Lease on behalf of a party represents and warrants that (1) such person is duly and validly authorized to do so on behalf of the entity it purports to so bind, and (2) if such party is a limited liability company, partnership, corporation or trustee, that such limited liability company, partnership, corporation or trustee has full right and authority to enter into this Lease and perform all of its obligations hereunder.

31.10 NOTICES. Any and all notices and demands required or permitted to be given hereunder to Landlord shall be in writing and shall be sent: (a) by United States mail, certified and postage prepaid; or (b) by personal delivery; or (c) by overnight courier, addressed to Landlord at 101 Lincoln Centre Drive, Fourth Floor, Foster City, California 94404-1167. Any and all notices and demands required or permitted to be given hereunder to Tenant shall be in writing and shall be sent: (i) by United States mail, certified and postage prepaid; or (ii) by personal delivery to any employee or agent of Tenant over the age of eighteen (18) years of age; or (iii) by overnight courier, all of which shall be addressed to Tenant at the Tenant's Address as provided on Page 1 of this Lease or otherwise provided to Landlord. Notice and/or demand shall be deemed given upon the earlier of actual receipt or the third day following deposit in the United States mail. Any notice or requirement of service required by any statute or law now or hereafter in effect, including, but not limited to, California Code of Civil Procedure Sections 1161, 1161.1, and 1162, is hereby waived by Tenant.

31.11 JOINT AND SEVERAL. If Tenant consists of more than one person or entity, the obligations of all such persons or entities shall be joint and several.

31.12 COVENANTS AND CONDITIONS. Each provision to be performed by Tenant hereunder shall be deemed to be both a covenant and a condition.

31.13 WAIVER OF JURY TRIAL. Intentionally omitted.

31.14 COUNTERCLAIMS. In the event Landlord commences any proceedings for nonpayment of Rent, Additional Rent, or any other sums or amounts due hereunder, Tenant shall not interpose any counterclaim of whatever nature or description in any such proceedings, provided, however, nothing contained herein shall be deemed or construed as a waiver of the Tenant's right to assert such claims in any separate action brought by Tenant or the right to offset the amount of any final judgment owed by Landlord to Tenant.

31.15 UNDERLINING. The use of underlining within the Lease is for Landlord's reference purposes only and no other meaning or emphasis is intended by this use, nor should any be inferred.

32. SIGNS: All signs and graphics of every kind visible in or from public view or corridors or the exterior of the Premises shall be subject to Landlord's prior written approval, which shall not be unreasonably withheld or delayed, and shall also be subject to any applicable governmental laws, ordinances, and regulations and in compliance with Landlord's sign criteria as same may exist from time to time or as set forth in Exhibit H hereto and made a part hereof. Tenant shall remove all such signs and graphics prior to the termination of this Lease. Such installations and removals shall be made in a manner as to avoid damage or defacement of the Premises; and Tenant shall repair any damage or defacement, including without limitation, discoloration caused by such installation or removal. Landlord shall have the right, at its option, to demand payment from Tenant of such sums as are reasonably necessary to remove such signs, including, but not limited to, the costs and expenses associated with any repairs necessitated by such removal. Notwithstanding the foregoing, in no event shall any: (a) neon, flashing or moving sign(s) or (b) sign(s) which shall interfere with the visibility of any sign, awning, canopy, advertising matter, or decoration of any kind of any other business or occupant of the Buildings or the Park be permitted hereunder. Tenant further agrees to maintain any such sign, awning, canopy, advertising matter, lettering, decoration or other thing as may be approved in good condition and repair at all times.

33. MORTGAGEE PROTECTION: Upon any breach or default on the part of Landlord, Tenant will give written notice by registered or certified mail to any beneficiary of a deed of trust or mortgagee of a mortgage covering the Premises who has provided Tenant with notice of their interest together with an address for receiving notice, and shall offer such beneficiary or mortgagee a reasonable opportunity to cure the default (which, in no event shall be more than ninety (90) days), including time to obtain possession of the Premises by power of sale or a judicial foreclosure, if such should prove necessary to effect a cure. If such breach or default cannot be cured within such time period, then such additional time as may be necessary will be given to such beneficiary or mortgagee to effect such cure so long as such beneficiary or mortgagee has commenced the cure within the original time period and thereafter diligently pursues such cure to completion, in which event this Lease shall not be terminated while such cure is being diligently pursued. Tenant agrees that each lender to whom this Lease has been assigned by Landlord is an express third party beneficiary hereof. Tenant shall not make any prepayment of Rent more than one (1) month in advance without the prior written consent of each such lender, except if Tenant is required to make quarterly payments of Rent in advance pursuant to the provisions of Section 8 above. Tenant agrees to make all payments under this Lease to the lender with the most senior encumbrance upon receiving a direction, in writing, to pay said amounts to such lender. Tenant shall comply with such written direction to pay without determining whether an event of default exists under such lender's loan to Landlord.

34. QUITCLAIM: Upon any termination of this Lease, Tenant shall, at Landlord's request, execute, have acknowledged and deliver to Landlord a quitclaim deed of Tenant's interest in and to the Premises.

35. MODIFICATIONS FOR LENDER: If, in connection with obtaining financing for the Premises or any portion thereof, Landlord's lender shall request reasonable modification(s) to this Lease as a condition to such financing, Tenant shall not unreasonably withhold, delay or defer its consent thereto, provided such modifications do not materially adversely affect Tenant's rights hereunder or the use, occupancy or quiet enjoyment of Tenant hereunder.

36. WARRANTIES OF TENANT: Tenant hereby warrants and represents to Landlord, for the express benefit of Landlord, that Tenant has undertaken a complete and independent evaluation of the risks inherent in the execution of this Lease and the operation of the Premises for the use permitted hereby, and that, based upon said independent evaluation, Tenant has elected to enter into this Lease and hereby assumes all risks with respect thereto. Each party hereby warrants and represents to the other party, for the express benefit of the other party, that in entering into this Lease, the warranting party has not relied upon any statement, fact, promise or representation (whether express or implied, written or oral) not specifically set forth herein in writing and that any statement, fact, promise or representation (whether express or implied, written or oral) made at any time to it, which is not expressly incorporated herein in writing, is hereby waived by it.

37. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT: Landlord and Tenant hereby agree and acknowledge that the Premises, the Buildings and/or the Park may be subject to the requirements of the Americans with Disabilities Act, a federal law codified at 42 U.S.C. 12101 et seq, including, but not limited to Title III thereof, all regulations and guidelines related thereto, together with any and all laws, rules, regulations, ordinances, codes and statutes now or hereafter enacted by local or state agencies having jurisdiction thereof, including all requirements of Title 24 of the State of California, as the same may be in effect on the date of this Lease and may be hereafter modified, amended or supplemented (collectively, the "ADA"). The Shell Improvements to be constructed hereunder shall be in compliance with the requirements of the ADA as of the date on which the Shell Improvements are Substantially Completed. Any Tenant Improvements to be constructed hereunder shall be in compliance with the requirements of the ADA, and all costs incurred for purposes of compliance therewith shall be a part of and included in the costs of the Tenant Improvements. Tenant shall be solely responsible for conducting its own independent investigation of this matter and for ensuring that the design of all Tenant Improvements strictly comply with all requirements of the ADA. Subject to reimbursement pursuant to Section

6 of the Lease, if any barrier removal work or other work is required to the Buildings, the Common Areas or the Park under the ADA, then such work shall be the responsibility of Landlord; provided, if such work is required under the ADA as a result of Tenant's use of the Premises or any work or alteration made to the Premises by or on behalf of Tenant, then such work shall be performed by Landlord at the sole cost and expense of Tenant. Except as otherwise expressly provided in this provision, Tenant shall be responsible at its sole cost and expense for fully and faithfully complying with all applicable requirements of the ADA, including without limitation, not discriminating against any disabled persons in the operation of Tenant's business in or about the Premises, and offering or otherwise providing auxiliary aids and services as, and when, required by the ADA. Within ten (10) days after receipt, Landlord and Tenant shall advise the other party in writing, and provide the other with copies of (as applicable), any notices alleging violation of the ADA relating to any portion of the Premises or the Buildings; any claims made or threatened in writing regarding noncompliance with the ADA and relating to any portion of the Premises or the Buildings; or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to any portion of the Premises or the Buildings. Tenant shall and hereby agrees to protect, defend (with counsel acceptable to Landlord) and hold Landlord and Landlord's lender(s), members, partners, employees, representatives, legal representatives, successors and assigns (collectively, the "Indemnitees") harmless and indemnify the Indemnitees from and against all liabilities, damages, claims, losses, penalties, judgments, charges and expenses (including reasonable attorneys' fees, costs of court and expenses necessary in the prosecution or defense of any litigation including the enforcement of this provision) arising from or in any way related to, directly or indirectly, Tenant's or Tenant's Representatives' violation of the ADA. Tenant agrees that the obligations of Tenant herein shall survive the expiration or earlier termination of this Lease.

38. BROKERAGE COMMISSION: Landlord and Tenant each represents and warrants for the benefit of the other that it has had no dealings with any real estate broker, agent or finder in connection with the Premises and/or the negotiation of this Lease, except for the Broker(s) (as set forth on Page 1), and that it knows of no other real estate broker, agent or finder who is or might be entitled to a real estate brokerage commission or finder's fee in connection with this Lease or otherwise based upon contacts between the claimant and Tenant. Each party shall indemnify and hold harmless the other from and against any and all liabilities or expenses arising out of claims made for a fee or commission by any real estate broker, agent or finder in connection with the Premises and this Lease other than Broker(s), if any, resulting from the actions of the indemnifying party. Any real estate brokerage commission or finder's fee payable to the Broker(s) in connection with this Lease shall only be payable and applicable to the extent of the initial term of the Lease and to the extent of the Premises as same exist as of the date on which Tenant executes this Lease. Unless expressly agreed to in writing by Landlord and Broker(s), no real estate brokerage commission or finder's fee shall be owed to, or otherwise payable to, the Broker(s) for any renewals or other extensions of the initial Term of this Lease or for any additional space leased by Tenant other than the Premises as same exists as of the date on which Tenant executes this Lease. Tenant further represents and warrants to Landlord that Tenant will not receive (i) any portion of any brokerage commission or finder's fee payable to the Broker(s) in connection with this Lease or (ii) any other form of compensation or incentive from the Broker(s) with respect to this Lease.

39. QUIET ENJOYMENT: Landlord covenants with Tenant, upon the paying of Rent and observing and keeping the covenants, agreements and conditions of this Lease on its part to be kept, and during the periods that Tenant is not otherwise in default of any of the terms or provisions of this Lease, and subject to the rights of any of Landlord's lenders, (i) that Tenant shall and may peaceably and quietly hold, occupy and enjoy the Premises and the Common Areas during the Term of this Lease, and (ii) neither Landlord, nor any successor or assign of Landlord, shall disturb Tenant's occupancy or enjoyment of the Premises and the Common Areas.

40. LANDLORD'S ABILITY TO PERFORM TENANT'S UNPERFORMED OBLIGATIONS:

Notwithstanding anything to the contrary contained in this Lease, if Tenant shall fail to perform any of the terms, provisions, covenants or conditions to be performed or complied with by Tenant pursuant to this Lease, and/or if the failure of Tenant relates to a matter which in Landlord's judgment reasonably exercised is of an emergency nature and such failure shall remain uncured for a period of time commensurate with such emergency, then Landlord may, at Landlord's option without any obligation to do so, and in its sole discretion as to the necessity therefor, perform any such term, provision, covenant, or condition, or make any such payment and Landlord by reason of so doing shall not be liable or responsible for any loss or damage thereby sustained by Tenant or anyone holding under or through Tenant. If Landlord so performs any of Tenant's obligations hereunder, the full amount of the cost and expense entailed or the payment so made or the amount of the loss so sustained shall immediately be owing by Tenant to Landlord, and Tenant shall promptly pay to Landlord upon demand, as Additional Rent, the full amount thereof with interest thereon from the date of payment at the greater of (i) ten percent (10%) per annum, or (ii) the highest rate permitted by applicable law and Enforcement Expenses.

41. TENANT'S ABILITY TO PERFORM LANDLORD'S UNPERFORMED OBLIGATIONS:

Notwithstanding anything to the contrary contained in this Lease, if Landlord shall fail to perform any of the terms, provisions, covenants or conditions to be performed or complied with by Landlord pursuant to this Lease after expiration of all applicable notice and cure periods for Landlord's and any mortgagee's benefit as set forth in Sections 23 and 33, respectively, and/or if the failure of Landlord relates to a matter which in Tenant's judgment reasonably exercised is of an emergency nature and such failure shall remain uncured for a period of time commensurate with such emergency, then Tenant may, at Tenant's option without any obligation to do so, after delivery of prior written notice to Landlord and affording Landlord an opportunity to cure such failure, perform any such term, provision, covenant, or condition. If Tenant so performs any of Landlord's obligations hereunder, the full

amount of the reasonable costs and expenses incurred shall immediately be owing by Landlord to Tenant, and Landlord shall pay to Tenant the full amount thereof within ninety (90) days of Landlord's receipt of Tenant's written demand and accompanying documentation therefor. If Landlord fails to pay such sums within said 90-day period, and provided there does not then exist a good faith dispute thereof on the part of Landlord, Tenant may deduct such sums so demanded from the next installment of Base Rent then due from Tenant hereunder.

IN WITNESS WHEREOF, this Lease is executed by the parties as of the Lease Date referenced on page 1 of this Lease.

TENANT:

Cisco Systems, Inc., a California corporation

By: */s/Nancy Bareilles*

Its: *VP*

Date: *12-19-96*

LANDLORD:

LINCOLN-WHITEHALL REALTY (WEST), L.L.C.,
a Delaware limited liability company

By: Lincoln Property Company Management Services, Inc., as manager and agent for LINCOLN-WHITEHALL REALTY (WEST), L.L.C.

By: */s/Barry DiRaimondo*

Vice President

Date: *12/23/96*

EXHIBIT A - PREMISES

This exhibit, entitled "Premises", is and shall constitute EXHIBIT A to that certain Lease Agreement dated December 18, 1996, (the "Lease"), by and between Lincoln-Whitehall Realty (West), L.L.C., a Delaware limited liability company ("Landlord"), and Cisco Systems, Inc., a California corporation ("Tenant"), for the leasing of certain premises located in the Lincoln Bay Tech Park, at Buildings C & D, San Jose, California (the "Premises").

The Premises consist of the rentable square footage of space specified in the Basic Lease Information and has the addresses specified in the Basic Lease Information. The Premises are a part of and are contained in the Buildings specified in the Basic Lease Information. The cross-hatched area depicts the Premises within the Buildings and the Park:

INITIALS :

TENANT : _____

LANDLORD : _____

**EXHIBIT B TO LEASE AGREEMENT
TENANT IMPROVEMENTS AND SHELL IMPROVEMENTS**

This exhibit, entitled "Tenant Improvements and Shell Improvements", is and shall constitute EXHIBIT B to that certain Lease Agreement dated December 18, 1996, (the "Lease"), by and between Lincoln-Whitehall Realty (West), L.L.C., a Delaware limited liability company ("Landlord"), and Cisco Systems, Inc., a California corporation ("Tenant"), for the leasing of certain premises located at 130 Baytech Drive (Building C) and 140 Baytech Drive (Building D), San Jose, California (the "Premises"). The terms, conditions and provisions of this EXHIBIT B are hereby incorporated into and are made a part of the Lease. Any capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed to such terms as set forth in the Lease.

1. **TENANT TO CONSTRUCT TENANT IMPROVEMENTS.** Subject to the provisions below, Tenant shall be solely responsible for the planning, construction and completion of the interior tenant improvements ("Tenant Improvements") to the Premises in accordance with the terms and conditions of this Exhibit B. The Tenant Improvements shall not include any of Tenant's personal property, trade fixtures, furnishings, equipment or similar items.

2. **TENANT IMPROVEMENT PLANS.**

A. **PRELIMINARY PLANS AND SPECIFICATIONS.** Tenant shall retain a licensed, insured architect ("Architect") to prepare preliminary working architectural and engineering plans and specifications ("Preliminary Plans and Specifications") for the Tenant Improvements. Tenant shall deliver the Preliminary Plans and Specifications to Landlord. The Preliminary Plans and Specifications shall be in sufficient detail to show locations, types and requirements for all heat loads, people loads, floor loads, power and plumbing, regular and special HVAC needs, telephone communications, telephone and electrical outlets, lighting, lighting fixtures and related power, and electrical and telephone switches. Landlord shall reasonably approve or disapprove the Preliminary Plans and Specifications within five (5) days after Landlord receives the Preliminary Plans and Specifications and, if disapproved, Landlord shall return the Preliminary Plans and Specifications to Tenant, who shall make all necessary revisions within ten (10) days after Tenant's receipt thereof. This procedure shall be repeated until Landlord approves the Preliminary Plans and Specifications. The approved Preliminary Plans and Specifications, as modified, shall be deemed the "Final Preliminary Plans and Specifications".

B. **FINAL PLANS AND SPECIFICATIONS.** After the Final Preliminary Plans and Specifications are approved by Landlord and are deemed to be the Final Preliminary Plans and Specifications, Tenant shall cause the Architect to prepare in twenty (20) days following Landlord's approval of the Final Preliminary Plans and Specifications the final working architectural and engineering plans, specifications and drawings, ("Final Plans and Specifications") for the Tenant Improvements. Tenant shall then deliver the Final Plans and Specifications to Landlord. Landlord shall reasonably approve or disapprove the Final Plans and Specifications within five (5) days after Landlord receives the Final Plans and Specifications and, if disapproved, Landlord shall return the Final Plans and Specifications to Tenant who shall make all necessary revisions within ten (10) days after Tenant's receipt thereof. This procedure shall be repeated until Landlord approves, in writing, the Final Plans and Specifications. The approved Final Plans and Specifications, as modified, shall be deemed the "Construction Documents".

C. **MISCELLANEOUS.** All deliveries of the Preliminary Plans and Specifications, the Final Preliminary Plans and Specifications, the Final Plans and Specifications, and the Construction Documents shall be delivered by messenger service, by personal hand delivery or by overnight parcel service. While Landlord has the right to approve the Preliminary Plans and Specifications, the Final Preliminary Plans and Specifications, the Final Plans and Specifications, and the Construction Documents, Landlord's interest in doing so is to protect the Premises, the Buildings and Landlord's interest. Accordingly, Tenant shall not rely upon Landlord's approvals and Landlord shall not be the guarantor of, nor responsible for, the adequacy and correctness or accuracy of the Preliminary Plans and Specifications, the Final Preliminary Plans and Specifications, the Final Plans and Specifications, and the Construction Documents, or the compliance thereof with applicable laws, and Landlord shall incur no liability of any kind by reason of granting such approvals.

D. **BUILDING STANDARD WORK.** The Construction Documents shall provide that the Tenant Improvements to be constructed in accordance therewith must be at least equal, in quality, to Landlord's building standard materials, quantities and procedures then in use by Landlord ("Building Standards") attached hereto as Exhibit B-2. Notwithstanding the foregoing, so long as the Construction Documents are consistent with Tenant's Tasman buildings, the Construction Documents shall be considered to be in accordance with Landlord's Building Standards.

3. **PERMITS.** Tenant, at its sole cost and expense (subject to the provisions of Paragraph 5 below), shall obtain all governmental approvals of the Construction Documents to the full extent necessary for the issuance of a building permit for the Tenant Improvements based upon such Construction Documents. Tenant, at its sole cost and expense, shall also cause to be obtained all other necessary approvals and permits from all governmental agencies having jurisdiction or authority for the construction and installation of the Tenant Improvements in accordance with the approved Construction Documents. Tenant at its sole cost and expense (subject to the provisions of Paragraph 5 below) shall undertake all steps necessary to insure that the construction of the Tenant Improvements is accomplished in strict compliance with all statutes, laws, ordinances, codes, rules, and regulations applicable to the construction of the Tenant Improvements and the requirements and standards of

any insurance underwriting board, inspection bureau or insurance carrier insuring the Premises and/or the Buildings.

4. CONSTRUCTION.

A. Tenant shall be solely responsible for the construction, installation and completion of the Tenant Improvements in accordance with the Construction Documents approved by Landlord and is solely responsible for the payment of all amounts when payable in connection therewith without any cost or expense to Landlord, except for Landlord's obligation to contribute the Tenant Improvement Allowance in accordance with the provisions of Paragraph 5 below. Tenant shall diligently proceed with the construction, installation and completion of the Tenant Improvements in accordance with the Construction Documents and the completion schedule reasonably approved by Landlord. No material changes shall be made to the Construction Documents and the completion schedule approved by Landlord without Landlord's prior written consent, which consent shall not be unreasonably withheld or delayed.

B. Tenant at its sole cost and expense (subject to the provisions of Paragraph 5 below) shall employ a licensed, insured and bondable general contractor ("Contractor") to construct the Tenant Improvements in accordance with the Construction Documents. The construction contracts between Tenant and the Contractor and between the Contractor and subcontractors shall be subject to Landlord's prior written approval, which approval shall not be unreasonably withheld. In addition to the foregoing, each of such construction contracts shall include a provision that Landlord shall be a third party beneficiary in, to and under such construction contracts. Proof that the Contractor is licensed in California, is bondable as required under California law, and has the insurance specified in Exhibit B-1, attached hereto and incorporated herein by this reference, shall be provided to Landlord at the time that Tenant requests approval of the Contractor from Landlord. Tenant shall comply with or cause the Contractor to comply with all other terms and provisions of Exhibit B-1. Notwithstanding anything to the contrary contained herein, Landlord hereby approves of Devcon Construction Inc. to be selected by Tenant as the Contractor under this Exhibit B. Tenant shall keep the Premises and the property on which the Premises are situated free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Tenant with regard to the Tenant Improvements. Additionally, Tenant shall promptly discharge, bond or otherwise cause the release of any and all liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Tenant with regard to the Tenant Improvements regardless of any dispute Tenant or its Contractor may have regarding any such liens. In addition to the foregoing and in consideration for Landlord not requiring the Contractor to procure a bond with respect to the construction of the Tenant Improvements, Tenant agrees to protect, defend (with counsel acceptable to Landlord) and hold Landlord and the Indemnitees harmless and indemnify the Indemnitees from and against all liabilities, damages, claims, losses, judgments, charges and expenses (including reasonable attorneys' fees, costs of court and expenses necessary in the prosecution or defense of any litigation including the enforcement of this provision) arising from or in any way related to, directly or indirectly, the construction of the Tenant Improvements, including without limitation, the costs to complete the Tenant Improvements and all other matters for which a payment and performance bond would have otherwise provided coverage.

C. Prior to the commencement of the construction and installation of the Tenant Improvements, Tenant shall provide the following to Landlord, all of which shall be to Landlord's reasonable satisfaction:

(i) An estimated budget and cost breakdown for the Tenant Improvements.

(ii) Estimated completion schedule for the Tenant Improvements.

(iii) Copies of all required approvals and permits from governmental agencies having jurisdiction or authority for the construction and installation of the Tenant Improvements; provided, however, if prior to commencement of the construction and installation of Tenant Improvements Tenant has not received the electrical, plumbing or mechanical permits, Tenant shall only be required to provide Landlord with evidence that Tenant has made application therefor, and, upon receipt by Tenant of such permits, Tenant shall promptly provide Landlord with copies thereof.

(iv) Evidence of Tenant's procurement of insurance required to be obtained pursuant to the provisions of Paragraphs 4.B and 4.G.

D. Landlord shall at all reasonable times have a right to inspect the Tenant Improvements (provided Landlord does not materially interfere with the work being performed by the Contractor or its subcontractors) and Tenant shall immediately cease work upon written notice from Landlord if the Tenant Improvements are not in compliance with the Construction Documents approved by Landlord. If Landlord shall give notice of faulty construction or any other material deviation from the Construction Documents, Tenant shall cause the Contractor to make corrections promptly. However, neither the privilege herein granted to Landlord to make such inspections, nor the making of such inspections by Landlord, shall operate as a waiver of any rights of Landlord to require good and workmanlike construction and improvements constructed in accordance with the Construction Documents.

E. Subject to Landlord complying with its obligations in Paragraph 5 below, Tenant shall pay and discharge promptly and fully all claims for labor done and materials and services furnished in connection with the Tenant Improvements. The Tenant Improvements shall not be commenced until five (5) business days after Landlord has received notice from Tenant stating the date the construction of the Tenant Improvements is to commence so that Landlord can post and record any appropriate Notice of Non-Responsibility.

F. Tenant acknowledges and agrees that the agreements and covenants of Tenant in Sections 10 and 37 of the Lease shall be fully applicable to Tenant's construction of the Tenant Improvements.

G. Tenant shall maintain, and cause to be maintained, during the construction of the Tenant Improvements, at its sole cost and expense, insurance of the types and in the amounts specified in Exhibit B-1 and in Section 12 of the Lease, together with builders' risk insurance for the amount of the completed value of the Tenant Improvements on an all-risk non-reporting form covering all improvements under construction, including building materials, and other insurance in amounts and against such risks as the Landlord shall reasonably require in connection with the Tenant Improvements.

H. No materials, equipment or fixtures shall be delivered to or installed upon the Premises pursuant to any agreement by which another party has a security interest or rights to remove or repossess such items, without the prior written consent of Landlord, which consent shall not be unreasonably withheld.

I. Landlord reserves the right to establish reasonable rules and regulations for the use of the Buildings during the course of construction of the Tenant Improvements, including, but not limited to, construction parking, storage of materials, hours of work, use of elevators, and clean-up of construction related debris.

J. Upon completion of the Tenant Improvements, Tenant shall deliver to Landlord the following, all of which shall be to Landlord's reasonable satisfaction:

(i) Any certificates required for occupancy, including a permanent and complete Certificate of Occupancy issued by the City of San Jose.

(ii) A Certificate of Completion signed by the Architect who prepared the Construction Documents, reasonably approved by Landlord.

(iii) A cost breakdown itemizing all expenses for the Tenant Improvements, together with invoices and receipts for the same or other evidence of payment.

(iv) Final and unconditional mechanic's lien waivers for all the Tenant Improvements.

(v) A Notice of Completion for execution by Landlord, which certificate once executed by Landlord shall be recorded by Tenant in the official records of Santa Clara County, and Tenant shall then deliver to Landlord a true and correct copy of the recorded Notice of Completion.

(vi) A true and complete copy of all as-built plans and drawings for the Tenant Improvements.

K. The Tenant Improvements shall be deemed substantially complete on the date that the building officials of the applicable governmental agency(s) issues its final approval of the construction of the Tenant Improvements whether in the form of the issuance of a final permit, certificate of occupancy or the written approval evidencing its final inspection on the building permits, or the date on which Tenant first takes occupancy of the Premises for purposes other than to perform the Tenant's Pre-Occupancy Work (defined below), or the date that the Contractor issues a certificate stating that the Tenant Improvements have been substantially completed in accordance with the Construction Drawings, whichever first occurs ("Substantial Completion", or "Substantially Completed", or "Substantially Complete").

5. TENANT IMPROVEMENT ALLOWANCE.

A. Subject to Tenant's compliance with the provisions of this Exhibit B, Landlord shall provide to Tenant an allowance in the approximate amount of eight hundred forty-nine thousand three hundred fifty and 00/100 dollars and (\$849,350.00) based upon a rate of ten dollars (\$10.00) per rentable square foot of the Premises (the "Tenant Improvement Allowance") to construct and install only the Tenant Improvements. The actual amount of the Tenant Improvement Allowance shall be adjusted commensurately based upon the actual rentable square feet of the Premises after Landlord's Substantial Completion of the Shell Improvements. The Tenant Improvement Allowance shall be used to design, prepare, plan, obtain the approval of, construct and install the Tenant Improvements and for no other purpose. Except as otherwise expressly provided herein, Landlord shall have no obligation to contribute the Tenant Improvement Allowance unless and until the Construction Documents have been approved by Landlord and Tenant has complied with all requirements set forth in Paragraph 4.C. of this Exhibit B. The costs to be paid out of the Tenant Improvement Allowance shall include all reasonable costs and expenses associated with the design, preparation, approval, planning, construction and installation of the Tenant Improvements (the "Tenant Improvement Costs"), including all of the following:

(i) All costs of the Preliminary Plans and Specifications, the Final Plans and Specifications, and the Construction Documents, and engineering costs associated with completion of the State of California energy utilization calculations under Title 24 legislation:

(ii) All costs of obtaining building permits and other necessary authorizations from local governmental authorities;

- (iii) All costs of interior design and finish schedule plans and specifications including as-built drawings, if applicable;
- (iv) All direct and indirect costs of procuring, constructing and installing the Tenant Improvements in the Premises, including, but not limited to, the construction fee for overhead and profit and the cost of all on-site supervisory and administrative staff, office, equipment and temporary services rendered by the Contractor in connection with the construction of the Tenant Improvements; provided, however, that the construction fee for overhead and profit, the cost of all on-site supervisory and administrative staff, office, equipment and temporary services shall not exceed amounts which are reasonable and customary for such items in the local construction industry;
- (v) All fees payable to the Architect and any engineer if they are required to redesign any portion of the Tenant Improvements following Tenant's and Landlord's approval of the Construction Documents;
- (vi) Utility connection fees;
- (vii) Inspection fees and filing fees payable to local governmental authorities, if any;
- (viii) All costs of all permanently affixed equipment and non-trade fixtures provided for in the Construction Documents, including the cost of installation; and,
- (ix) A construction management fee (the "CM Fee") payable to Landlord in the amount of one percent (1%) of the aggregate of the hard costs for the construction and installation of the Tenant Improvements (excluding this CM Fee).

The Tenant Improvement Allowance shall be the maximum contribution by Landlord for the Tenant Improvement Costs, and the disbursement of the Tenant Improvement Allowance is subject to the terms contained hereinbelow.

Except for payment of the CM Fee, Landlord will make payments to Tenant from the Tenant Improvement Allowance to reimburse Tenant for Tenant Improvement Costs paid or incurred by Tenant. Payment of the CM Fee shall be the first payment from the Tenant Improvement Allowance and shall be made by means of a deduction or credit against the Tenant Improvement Allowance. All other payments of the Tenant Improvement Allowance shall be by progress payments not more frequently than once per month and only after satisfaction of the following conditions precedent: (a) receipt by Landlord of conditional mechanics' lien releases for the work completed and to be paid by said progress payment, conditioned only on the payment of the sums set forth in the mechanics' lien release, executed by the Contractor and all subcontractors, labor suppliers and materialmen; (b) receipt by Landlord of unconditional mechanics' lien releases from the Contractor and all subcontractors, labor suppliers and materialmen for all work other than that being paid by the current progress payment previously completed by the Contractor, subcontractors, labor suppliers and materialmen and for which Tenant has received funds from the Tenant Improvement Allowance to pay for such work; (c) receipt by Landlord of any and all documentation reasonably required by Landlord detailing the work that has been completed and the materials and supplies used as of the date of Tenant's request for the progress payment, including, without limitation, invoices, bills, or statements for the work completed and the materials and supplies used; and (d) completion by Landlord or Landlord's agents of any inspections of the work completed and materials and supplies used as deemed reasonably necessary by Landlord. Except for the CM Fee payment (credit), Tenant Improvement Allowance progress payments shall be paid to Tenant within fourteen (14) days from the satisfaction of the conditions set forth in the immediately preceding sentence. The preceding notwithstanding, all Tenant Improvement Costs paid or incurred by Tenant prior to Landlord's approval of the Construction Documents in connection with the design and planning of the Tenant Improvements by Architect shall be paid from the Tenant Improvement Allowance, without any retention, within fourteen (14) days following Landlord's receipt of invoices, bills or statements from Architect evidencing such costs. Notwithstanding the foregoing to the contrary, Landlord shall be entitled to withhold and retain five percent (5%) of the Tenant Improvement Allowance or of any Tenant Improvement Allowance progress payment until the lien-free expiration of the time for filing of any mechanics' liens claimed or which might be filed on account of any work ordered by Tenant or the Contractor or any subcontractor in connection with the construction and installation of the Tenant Improvements.

B. Landlord shall not be obligated to pay any Tenant Improvement Allowance progress payment or the Tenant Improvement Allowance retention if on the date Tenant is entitled to receive the Tenant Improvement Allowance progress payment or the Tenant Improvement Allowance retention Tenant is in material default of this Lease. Such payments shall resume upon Tenant curing any such default within the time periods which may be provided for in the Lease.

C. Should the total cost of constructing the Tenant Improvements be less than the Tenant Improvement Allowance, the Tenant Improvement Allowance shall be automatically reduced to the amount equal to said actual cost.

6. Termination. If the Lease is terminated prior to the date on which the Tenant Improvements are completed, for any reason due to the default of Tenant hereunder, in addition to any other remedies available to Landlord under the Lease, Tenant shall pay to Landlord as Additional Rent under the Lease, within five (5) days of receipt of a statement therefor, any and all costs incurred by Landlord and not reimbursed or otherwise paid by Tenant through the date of termination in connection with the Tenant Improvements to the extent

planned, installed and/or constructed as of such date of termination, including, but not limited to, any costs related to the removal of all or any portion of the Tenant Improvements and restoration costs related thereto. Except for any cafeteria and related items that are part of the Tenant Improvements for which Landlord will require Tenant, at its sole cost and expense, to demolish and/or remove from the Premises upon the expiration or earlier termination of this Lease, Landlord shall not require Tenant to demolish and/or remove any other items comprising the Tenant Improvements from the Premises upon the expiration or earlier termination of this Lease.

7. Lease Provisions; Conflict. The terms and provisions of the Lease, insofar as they are applicable, in whole or in part, to this EXHIBIT B, are hereby incorporated herein by reference, and specifically including all of the provisions of Section 31 of the Lease. In the event of any conflict between the terms of the Lease and this EXHIBIT B, the terms of this EXHIBIT B shall prevail. Any amounts payable by Tenant to Landlord hereunder shall be deemed to be Additional Rent under the Lease and, upon any default in the payment of same, Landlord shall have all rights and remedies available to it as provided for in the Lease.

8. Tenant Access. Landlord, in Landlord's reasonable discretion and upon receipt of written confirmation from Landlord's general contractor that such entry will be in harmony with Landlord's general contractor's work schedule with respect to the Shell Improvements, will grant Tenant a license to have access to the Premises prior to the Shell Improvements being Substantially Completed (defined below) to allow Tenant to do other work required by Tenant to install a portion of the Tenant Improvements and to otherwise make the Premises ready for Tenant's use and occupancy (the "Tenant's Pre-Occupancy Work"). It shall be a condition to the grant by Landlord and continued effectiveness of such license that:

(a) Tenant shall give to Landlord a written request to have such access not less than five (5) business days prior to the date on which such proposed access will commence (the "Access Notice"). The Access Notice shall contain or be accompanied by each of the following items, all in form and substance reasonably acceptable to Landlord: (i) a detailed description of and schedule for Tenant's Pre-Occupancy Work; (ii) the names and addresses of all contractors, subcontractors and material suppliers and all other representatives of Tenant who or which will be entering the Premises on behalf of Tenant to perform Tenant's Pre-Occupancy Work or will be supplying materials for such work, and the approximate number of individuals, itemized by trade, who will be present in the Premises; (iii) copies of all contracts, subcontracts, material purchase orders, plans and specifications pertaining to Tenant's Pre-Occupancy Work; (iv) copies of all licenses and permits required in connection with the performance of Tenant's Pre-Occupancy Work; and (v) certificates of insurance (in amounts satisfactory to Landlord and with the parties identified in, or required by, the Lease named as additional insureds) and instruments of indemnification against all claims, costs, expenses, penalties, fines, and damages which may arise in connection with Tenant's Pre-Occupancy Work.

(b) Such pre-term access by Tenant and Tenant's employees, agents, contractors, consultants, workmen, mechanics, suppliers and invitees shall be subject to reasonable scheduling by Landlord.

(c) Tenant's employees, agents, contractors, consultants, workmen, mechanics, suppliers and invitees shall fully cooperate, work in harmony and not, in any manner, unreasonably interfere with Landlord or Landlord's agents or representatives in performing the work related to substantial completion of the Shell Improvements (the "Work") and any additional work pursuant to approved change orders for the Shell Improvements, Landlord's work in other areas of the Park, or the general operation of the Buildings. If at any time any such person representing Tenant shall not be cooperative or shall otherwise cause or threaten to cause any such disharmony or interference, including, without limitation, labor disharmony, and Tenant fails to immediately institute and maintain corrective actions as directed by Landlord, then Landlord may revoke such license upon twenty-four (24) hours' prior written notice to Tenant.

(d) Any such entry into and occupancy of the Premises or any portion thereof by Tenant or any person or entity working for or on behalf of Tenant shall be deemed to be subject to all of the terms, covenants, conditions and provisions of the Lease, excluding only the covenant to pay Rent. Landlord shall not be liable for any injury, loss or damage that may occur to any of Tenant's Pre-Occupancy Work made in or about the Premises or to any property placed therein prior to the commencement of the term of the Lease, the same being at Tenant's sole risk and liability. Tenant shall be liable to Landlord for any damage to any portion of the Premises, the Work or the additional work related to any approved change orders caused by Tenant or any of Tenant's employees, agents, contractors, consultants, workmen, mechanics, suppliers and invitees. In the event that the performance of Tenant's Pre-Occupancy Work causes extra costs to be incurred by Landlord or requires the use of other Building services, after delivery to Tenant of prior notice that such extra costs are reasonably anticipated by Landlord to be incurred, Tenant shall promptly reimburse Landlord for such extra costs and/or shall pay Landlord for such other Building services at Landlord's standard rates then in effect.

9. Shell Improvements. Subject to the conditions set forth herein, Landlord, at its sole cost and expense, agrees to construct and install certain shell improvements ("Shell Improvements") on the Lot, including without limitation, the construction of the Buildings substantially in accordance with those certain plans, specifications, and drawings prepared by Cabak Rooney Jordan Associates, dated September 30, 1996 (collectively, the "Shell Construction Drawings"), a copy of which is attached hereto as Schedule 1. In constructing and installing the Shell Improvements Landlord shall not deviate from the Shell Construction Drawings in any substantial and material manner, without first obtaining Tenant's prior consent thereto, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, Tenant shall not have any approval nor consensual rights (and Landlord shall not be required to obtain Tenant's consent therefor) concerning any changes required to be made to the Shell Construction Drawings or the Shell Improvements by (1) the fire department, building or

planning department, building inspectors or any other agency or official having jurisdiction over the Buildings, the work related to the Shell Improvements and/or the Shell Improvements, and/or (2) any committee, declarant or other persons or entities having approval or similar rights under any Recorded Matters with respect to the Shell Improvements, and/or (3) Landlord's lender(s) making a construction loan(s) with respect to the Shell Improvements. The Shell Improvements shall not include the Tenant Improvements nor any of Tenant's personal property, equipment, furnishings, trade fixtures or fixtures. All other improvements not specified in this Section 9 shall be considered Tenant Improvements and shall be paid for in accordance with the provisions of Sections 8 and 10 above. Landlord shall use commercially reasonable efforts to cause its general contractor to Substantially Complete (defined below) the Shell Improvements by the scheduled Commencement Date specified in the Basic Lease Information (the "Completion Date"), subject to delays due to (a) acts or events beyond its control including, but not limited to, acts of God, earthquakes, strikes, lockouts, boycotts, casualties, discontinuance of any utility or other service required for performance of the Work, moratoriums, governmental agencies and inclement weather (including, but not limited to, rain delays), (b) the lack of availability or shortage of specialized materials used in the construction of the Tenant Improvements, (c) any matters beyond the control of Landlord, the general contractor or any subcontractors, (d) any changes required by the fire department, building and/or planning department, building inspectors or any other agency having jurisdiction over the Buildings, the Work, the Tenant Improvements and/or the Shell Improvements (except to the extent such changes are directly attributable to Tenant's use or Tenant's specialized tenant improvements, in which event such delays are considered Tenant Delays) (the events and matters set forth in Subsections (a), (b), (c) and (d) are collectively referred to as "Force Majeure Delays"), or (e) any delay attributable to Tenant and/or any of Tenant's Representatives or Tenant's intended use of the Premises (collectively, "Tenant Delays"), including, but not limited to, any of the following described events or occurrences: (i) delays related to changes made or requested by Tenant to the Work, and/or the approved final drawings with respect to the Tenant Improvements; (ii) the failure of Tenant to furnish all or any plans, drawings, specifications, finish details or other information required above; (iii) the failure of Tenant to comply with the requirements of this Exhibit B; (iv) Tenant's requirements for special work or materials, finishes, or installations other than the Building Standards or Tenant's requirements for special construction or phasing; (v) any changes required by the fire department, building or planning department, building inspectors or any other agency having jurisdiction over the Buildings, the Work and/or the Tenant Improvements if such changes are directly attributable to Tenant's particular use or Tenant's specialized tenant improvements which do not conform to Landlord's Building Standards; (vi) the performance of any additional work pursuant to a change request which is requested by Tenant; (vii) the performance of work in or about the Premises by any person, firm or corporation employed by or on behalf of Tenant, including, without limitation, any failure to complete or any delay in the completion of such work; or (viii) any and all delays caused by or arising from acts or omissions of Tenant and/or Tenant's Representatives, in any manner whatsoever. Any delays in the construction of the Shell Improvements due to any of the events described above and designated as "Tenant Delays", shall in no way extend or affect the date on which Tenant is required to commence paying Rent under the terms of the Lease. It is the intention of the parties that all of such delays will be considered Tenant Delays for which Tenant shall be wholly and completely responsible for any and all consequences related to such delays, including, without limitation, any costs and expenses attributable to increases in labor or materials. The Shell Improvements shall be deemed substantially complete on the date that the building officials of the applicable governmental agency(s) issues its final approval of the construction of the Shell Improvements whether in the form of the issuance of a final permit, certificate of occupancy or the written approval evidencing its final inspection on the building permits, or the date on which Tenant first takes occupancy of the Premises for purposes other than to perform the Tenant's Pre-Occupancy Work (defined below), or the date that Landlord's general contractor issues a certificate stating that the Shell Improvements have been substantially completed in accordance with the Shell Construction Drawings, whichever first occurs ("Substantial Completion", or "Substantially Completed", or "Substantially Complete"). Subject to the provisions set forth below, if the Work with respect to the Shell Improvements is not deemed to be Substantially Completed on or before the scheduled Completion Date, (A) Landlord agrees to use reasonable efforts to Substantially Complete the Work as soon as practicable thereafter, (B) the Lease shall remain in full force and effect, and (C) Landlord shall not be deemed to be in breach or default of the Lease or this EXHIBIT B as a result thereof and, Landlord shall have no liability to Tenant as a result of any delay in occupancy (whether for damages, abatement of all or any portion of the Rent, or otherwise). Subject to the provisions set forth below, the Commencement Date and the Expiration Date of the term of the Lease (as defined in Section 2 of the Lease) shall be extended commensurately by the amount of time attributable to any Force Majeure Delays which delay the Substantial Completion of the Shell Improvements. In addition to the foregoing and notwithstanding anything to the contrary contained herein or in the Lease, if Landlord does not tender possession to Tenant of the Premises with the Shell Improvements Substantially Complete by November 15, 1997 (the "Outside Date") (subject to any Force Majeure Delays or Tenant Delays, in which event the date of November 15, 1997 shall be extended commensurately by the period of time attributable to such delays), then either Tenant or Landlord may terminate this Lease by delivering written notice thereof to the other party no later than the date which is ten (10) business days after the Outside Date, as extended by the period of time attributable to any Force Majeure Delays and/or Tenant Delays. In addition to the foregoing and notwithstanding anything to the contrary contained herein or in the Lease, if Landlord does not tender possession to Tenant of the Premises with the Shell Improvements Substantially Complete by March 1, 1998 (the "Ultimate Outside Date") (subject to any Tenant Delays, in which event the date of March 1, 1998 shall be extended commensurately by the period of time attributable to such delays), then either Tenant or Landlord may terminate this Lease by delivering written notice thereof to the other party no later than the date which is ten (10) business days after the Ultimate Outside Date, as extended by the period of time attributable to any Tenant Delays. If either party fails to timely terminate the Lease as and when provided herein, or if Landlord delivers to Tenant possession of the Premises with the Tenant Improvements Substantially Complete at any time earlier than the Outside Date (as such date may be extended due to Force Majeure Delays or Tenant Delays, as the case may be) or the Ultimate Outside Date (as such date may be extended due to Tenant Delays), as applicable, then upon the occurrence of any such

events the foregoing right given to Tenant and Landlord to terminate this Lease as provided herein shall lapse and be null and void upon the earlier occurrence of such event and the Lease shall remain in full force and effect with Tenant and Landlord having no further right to terminate this Lease pursuant to the foregoing provisions. If Landlord does so timely deliver to Tenant possession of the Premises with the Shell Improvements Substantially Complete, Tenant shall promptly deliver written notice to Landlord confirming same. In the event the commencement date and/or the expiration date of this Lease is other than the Commencement Date and/or Expiration Date provided on Page 1 in the Basic Lease Information, as the case may be, Landlord and Tenant shall execute a written amendment to this Lease, substantially in the form of Exhibit F hereto, wherein the parties shall specify the actual commencement date, expiration date, the date on which Tenant is to commence paying Rent and the other matters referred to in Section 1 of the Lease. Landlord's employees, agents, contractors, consultants, workmen, mechanics, suppliers and invitees shall fully cooperate, work in harmony and not, in any manner, unreasonably interfere with Tenant or Tenant's contractors, agents or representatives in performing the work related to substantial completion of the Tenant Improvements and any additional work pursuant to approved change orders for the Tenant Improvements. If at any time any such person representing Landlord shall not be cooperative or shall otherwise cause or threaten to cause any such disharmony or interference, including, without limitation, labor disharmony, and Landlord fails to immediately institute and maintain corrective actions as requested by Tenant, then any delays in Substantially Completing the Tenant Improvements as a result thereof shall be considered to be Landlord Delays.

EXHIBIT B-1

CONSTRUCTION INSURANCE REQUIREMENTS

Before commencing work, the contractor shall procure and maintain at its sole cost and expense until completion and final acceptance of the work, at least the following minimum levels of insurance.

A. Workers' Compensation in statutory amounts and Employers Liability Insurance in the minimum amounts of \$100,000 each accident for bodily injury by accident and \$100,000 each employee for bodily injury by disease with a \$500,000 policy limit, covering each and every worker used in connection with the contract work.

B. Comprehensive General Liability Insurance on an occurrence basis including, but not limited to, protection for Premises/Operations Liability, Broad Form Contractual Liability, Owner's and Contractor's Protective, and Products/Completed Operations Liability*, in the following minimum limits of liability.

Bodily Injury, Property Damage, and Personal Injury Liability \$2,000,000/each occurrence \$3,000,000/aggregate

* Products/Completed Operations Liability Insurance is to be provided for a period of at least one (1) year after completion of work.

Coverage should include protection for Explosion, Collapse and Underground Damage.

C. Comprehensive Automobile Liability Insurance with the following minimum limits of liability.

Bodily Injury and Property	\$1,000,000/each occurrence
Damage Liability	\$2,000,000/aggregate

This insurance will apply to all owned, non-owned or hired automobiles to be used by the Contractor in the completion of the work.

D. Umbrella Liability Insurance in a minimum amount of five million dollars (\$5,000,000), providing excess coverage on a following-form basis over the Employer's Liability limit in Paragraph A and the liability coverages outlined in Paragraphs B and C.

E. Equipment and Installation coverages in the broadest form available covering Contractor's tools and equipment and material not accepted by Tenant. Tenant will provide Builders Risk Insurance on all accepted and installed materials.

All policies of insurance, duplicates thereof or certificates evidencing coverage shall be delivered to Landlord prior to commencement of any work and shall name Landlord, and its partners and lenders as additional insureds as their interests may appear. All insurance policies shall (1) be issued by a company or companies licensed to be business in the state of California, (2) provide that no cancellation, non-renewal or material modification shall be effective without thirty (30) days prior written notice provided to Landlord, (3) provide no deductible greater than \$15,000 per occurrence, (4) contain a waiver to subrogation clause in favor of Landlord, and its partners and lenders, and (5) comply with the requirements of Sections 12.2, 12.3 and 12.4 of the Lease to the extent such requirements are applicable.

INITIALS:

TENANT: _____

LANDLORD: _____

**EXHIBIT B-2
BUILDING STANDARDS**

OFFICE AREA

DEMISING PARTITION AND CORRIDOR WALLS:

- A. 6" 20-gauge metal studs at 24" O.C. (or as required by code for span) framed full height from finish floor to structure above
- B. One (1) layer 5/8" drywall Type "X" both sides of wall, fire taped only

INTERIOR PARTITIONS:

- A. 3 5/8" 25-gauge metal studs at 24" O.C. to bottom of T-bar ceiling grid approximately 9' - 0' high
- B. Top track to be pre-formed slotted aluminum taped in
- C. One (1) layer 5/8" drywall both sides of wall, taped texture ready for paint
- D. 3 5/8" metal studs including all lateral bracing as required by code

PERIMETER DRYWALL (AT OFFICE AREAS):

- A. One (1) layer 5/8" Type "X" drywall taped texture ready for paint
- B. Provide alternate to texture concrete in lieu of furring walls

COLUMN FURRING:

- A. Furring channel all sides
- B. One (1) layer 5/8" drywall taped texture and ready for paint
- C. Provide deductive alternate for texturing columns where there are no pipes to furred out

ACOUSTICAL CEILINGS:

- A. 2' x 4' standard white T-bar grid system as manufactured by Chicago Metallic or equal
- B. 2' x 4' x 5/8" white, fissured, non-directional acoustical tile to be Cortega as manufactured by Armstrong or equal

PAINTING:

- A. Sheetrock walls to receive two (2) coats of interior latex paint as manufactured by Kelly Moore or equal. Some portions of second coat to be single accent color.
- B. Provide a deductive alternate for not painting warehouse walls

WINDOW COVERING:

- A. 1" aluminum mini-blinds as manufactured by Levelor or equal, color to be selected by Lincoln Property Company
- B. Blinds to be sized to fit window module

VCT:

VCT to be 1/8" x 12" x 12" as manufactured by Armstrong - Excelon Series or equal

LIGHT FIXTURES:

2' x 4' T-bar lay in 3-tube energy efficient fixture with cool white fluorescent tubes with prismatic acrylic lens as manufactured by Lithonia or equal

LIGHT SWITCHES:

- A. Double switching as required by Title 24
- B. Switch assembly to be Leviton, color - Ivory

ELECTRICAL OUTLET:

- A. 110-v duplex outlet in demising or interior partitions only, as manufactured by Leviton, color to be Ivory
- B. Eight (8) outlets per circuit, spacing to meet code (2 per office)

C. Transformers to be a minimum of 20% or over required capacity

D. Contractors to inspect electric room and to include all necessary metering costs

E. No aluminum wiring is acceptable

TELEPHONE OUTLET:

A. One (1) single outlet box in wall with pullwire from outlet box to area above T-bar ceiling per office

B. Cover plate for phone outlets to be included

FIRE SPRINKLERS:

As required by fire codes

TOPSET BASE:

A. 4" rubber base as manufactured by Burke or equal, standard colors only

B. 4" rubber base at VCT areas

TOILET AREAS:

Wet walls to receive marlite up to 48". Floors to receive sheetvinyl and cove base as required by code

CARPET:

Minimum 30 ounce, commercial grade, level loop, UM44-C. Type 1 Class 1. 100% continuous filament. 5-year wear guarantee. Glue down, no pad.

WOOD DOORS:

Shall be 3'-0" x 7'-0" x 1 3/4" (unless otherwise specified) solid core, prefinished birch "Cal-Wood" B-3 or equal if approved by owner

DOOR FRAMES:

Shall be ACI or equal, 3 3/4" or 4 7/8" throat, aluminum, dark bronze anodized, snap-on trim

HARDWARE:

Shall be "Schlage", a lever type "Levon" D series, dark bronze 613 finish, 2 3/4" backset. Closers (where required) shall be Duro X PA X SN-1

INSULATION:

By Title 24 insulation

PLUMBING:

A. Shall comply with all local codes and handicapped code requirements. Fixtures shall be either "American Standard", "Koher" or "Norris". All toilet accessories and grab bars shall be "Bobrick" or equal and approved by owner

B. Plumbing bid shall include 5 gallon minimum, or insta hot with mixer valve electric water heater

TOILET PARTITIONS:

Shall be as manufactured by Fiat, global or equal if approved by owner. Color shall be chosen by tenant

HVAC:

Five (5) year warranty provided on all HVAC compressor units. All penetrations and sleeper supports to be hot mopped to LPC standard. Provide alternate price for electric heat pumps at conditioned spaces. Provide time overlay switch at compressors.

WAREHOUSE AREAS:

Floor - sealed concrete

Fire Extinguishers - 2A 10 BC surface mount by code x by S.F. Lighting - 1x8 strip lighting single tube chain hung 25 ft. Draft stops - by code UBC 198 Edition

Service electrical outlets - HVAC or heaters at tenant cost (400 W metal halide lighting are acceptable in lieu of strip lighting at warehouse minimum 15 F.C.)1

**EXHIBIT C TO LEASE AGREEMENT
RULES & REGULATIONS**

This exhibit, entitled "Rules & Regulations", is and shall constitute EXHIBIT C to that certain Lease Agreement dated December 18, 1996 (the "Lease"), by and between Lincoln-Whitehall Realty (West), L.L.C., a Delaware limited liability company ("Landlord"), and Cisco Systems, Inc., a California corporation ("Tenant"), for the leasing of certain premises located at 130 Baytech Drive (Building C) and 140 Baytech Drive (Building D), San Jose, California (the "Premises"). The terms, conditions and provisions of this EXHIBIT C are hereby incorporated into and are made a part of the Lease. Any capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed to such terms as set forth in the Lease.

1. No advertisement, picture or sign of any sort shall be displayed on or outside the Premises or the Buildings without the prior written consent of Landlord. Landlord shall have the right to remove any such unapproved item without notice and at Tenant's expense.
2. Tenant shall not regularly store motor vehicles in designated parking areas after the conclusion of normal daily business activity.
3. Tenant shall not use any method of heating or air conditioning other than that supplied by Landlord without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed.
4. All window coverings installed by Tenant and visible from the outside of the Buildings require the prior written approval of Landlord.
5. Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance or any flammable or combustible materials on or around the Premises, the Buildings or the Park, except as otherwise permitted pursuant to the provisions of Section 29 of the Lease.
6. Tenant shall not alter any lock or install any new locks or bolts on any door at the Premises without the prior consent of Landlord, except any conspicuously designated security areas of Tenant.
7. Intentionally omitted.
8. Tenant shall park motor vehicles in those general parking areas as designated by Landlord except for loading and unloading. During those periods of loading and unloading, Tenant shall not unreasonably interfere with traffic flow within the Park and loading and unloading areas of other tenants.
9. Tenant shall not disturb, solicit or canvas any occupant of the Buildings or Park and shall cooperate to prevent same.
10. No person shall go on the roof without Landlord's permission.
11. Business machines and mechanical equipment belonging to Tenant which cause noise or vibration that may be transmitted to the structure of the Buildings, to such a degree as to be objectionable to Landlord or other Tenants, shall be placed and maintained by Tenant, at Tenant's expense, on vibration eliminators or other devices sufficient to eliminate noise or vibration.
12. All goods, including material used to store goods, delivered to the Premises of Tenant shall be immediately moved into the Premises and shall not be left in parking or receiving areas overnight without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed.
13. Tractor trailers which must be unhooked or parked with dolly wheels beyond the concrete loading areas must use steel plates or wood blocks under the dolly wheels to prevent damage to the asphalt paving surfaces. No parking or storing of such trailers will be permitted in the auto parking areas of the Park or on streets adjacent thereto.
14. Forklifts which operate on asphalt paving areas shall not have solid rubber tires and shall only use tires that do not damage the asphalt.
15. Tenant is responsible for the storage and removal of all trash and refuse. All such trash and refuse shall be contained in suitable receptacles stored behind screened enclosures at locations approved by Landlord.
16. Tenant shall not store or permit the storage or placement of goods, or merchandise or pallets or equipment of any sort in or around the Premises, the Buildings, the Park or any of the Common Areas of the foregoing. No displays or sales of merchandise shall be allowed in the parking lots or other Common Areas.
17. Tenant shall not permit any animals, including, but not limited to, any household pets, to be brought or kept in or about the Premises, the Buildings, the Park or any of the Common Areas of the foregoing.

INITIALS:

TENANT: _____

LANDLORD: _____

18. Tenant shall not permit any motor vehicles to be washed on any portion of the Premises or in the Common Areas of the Park, nor shall Tenant permit mechanical work or maintenance of motor vehicles to be performed on any portion of the Premises or in the Common Areas of the Park.

INITIALS:

TENANT:

LANDLORD:

EXHIBIT E

HAZARDOUS MATERIALS DISCLOSURE CERTIFICATE

Your cooperation in this matter is appreciated. Initially, the information provided by you in this Hazardous Materials Disclosure Certificate is necessary for the Landlord (identified below) to evaluate and finalize a lease agreement with you as tenant. After a lease agreement is signed by you and the Landlord (the "Lease Agreement"), on an annual basis in accordance with the provisions of Section 29 of the signed Lease Agreement, you are to provide an update to the information initially provided by you in this certificate. The information contained in the initial Hazardous Materials Disclosure Certificate and each annual certificate provided by you thereafter will be maintained in confidentiality by Landlord subject to release and disclosure as required by (i) any lenders and owners and their respective environmental consultants, (ii) any prospective purchaser(s) of all or any portion of the property on which the Premises are located, (iii) Landlord to defend itself or its lenders, partners or representatives against any claim or demand, and (iv) any laws, rules, regulations, orders, decrees, or ordinances, including, without limitation, court orders or subpoenas. Any and all capitalized terms used herein, which are not otherwise defined herein, shall have the same meaning ascribed to such term in the signed Lease Agreement. Any questions regarding this certificate should be directed to, and when completed, the certificate should be delivered to:

Landlord:

c/o Lincoln Property Company Management Services, Inc.
101 Lincoln Centre Drive, Fourth Floor
Foster City, California 94404
Attn:
Phone: (415) 571-2200

Name of (Prospective) Tenant: _____

Mailing Address: _____

Contact Person, Title and Telephone Number(s): _____

Contact Person for Hazardous Waste Materials Management and Manifests and Telephone Number (s): _____

Address of (Prospective) Premises: _____

Length of (Prospective) initial Term: _____

1. GENERAL INFORMATION:

Describe the initial proposed operations to take place in, on, or about the Premises, including, without limitation, principal products processed, manufactured or assembled services and activities to be provided or otherwise conducted. Existing tenants should describe any proposed changes to on-going operations.

2. USE, STORAGE AND DISPOSAL OF HAZARDOUS MATERIALS

2.1 Will any Hazardous Materials be used, generated, stored or disposed of in, on or about the Premises? Existing tenants should describe any Hazardous Materials which continue to be used, generated, stored or disposed of in, on or about

the Premises.

Wastes	Yes []	No []
Chemical Products	Yes []	No []
Other	Yes []	No []

If Yes is marked, please explain: _____

2.2 If Yes is marked in Section 2.1, attach a list of any Hazardous Materials to be used, generated, stored or disposed of in, on or about the Premises, including the applicable hazard class and an estimate of the quantities of such Hazardous Materials at any given time; estimated annual throughput; the proposed location(s) and method of storage (excluding nominal amounts of ordinary household cleaners and janitorial supplies which are not regulated by any Environmental Laws); and the proposed location(s) and method of disposal for each Hazardous Material, including, the estimated frequency, and the proposed contractors or subcontractors. Existing tenants should attach a list setting forth the information requested above and such list should include actual data from on-going operations and the identification of any variations in such information from the prior year's certificate.

3. STORAGE TANKS AND SUMPS

3.1 Is any above or below ground storage of gasoline, diesel, petroleum, or other Hazardous Materials in tanks or sumps proposed in, on or about the Premises? Existing tenants should describe any such actual or proposed activities.

Yes [] No []

If yes, please explain: _____

4. WASTE MANAGEMENT

4.1 Has your company been issued an EPA Hazardous Waste Generator I.D. Number? Existing tenants should describe any additional identification numbers issued since the previous certificate.

Yes [] No []

4.2 Has your company filed a biennial or quarterly reports as a hazardous waste generator? Existing tenants should describe any new reports filed.

Yes [] No []

If yes, attach a copy of the most recent report filed.

5. WASTEWATER TREATMENT AND DISCHARGE

5.1 Will your company discharge wastewater or other wastes to:

_____ storm drain?	_____ sewer?
_____ surface water?	_____ no wastewater or other wastes discharged.

Existing tenants should indicate any actual discharges. If so, describe the nature of any proposed or actual discharge(s).

5.2 Will any such wastewater or waste be treated before discharge?

Yes [] No []

If yes, describe the type of treatment proposed to be conducted. Existing tenants should describe the actual treatment conducted.

6. AIR DISCHARGES

6.1 Do you plan for any air filtration systems or stacks to be used in your company's operations in, on or about the Premises that will discharge into the air; and will such air emissions be monitored? Existing tenants should indicate whether or not there are any such air filtration systems or stacks in use in, on or about the Premises which discharge into the air and whether such air emissions are being monitored.

Yes [] No []

If yes, please describe: _____

6.2 Do you propose to operate any of the following types of equipment, or any other equipment requiring an air emissions permit? Existing tenants should specify any such equipment being operated in, on or about the Premises.

_____ Spray booth(s)	_____ Incinerator(s)
_____ Dip tank(s)	_____ Other (Please describe)
_____ Drying oven(s)	_____ No Equipment Requiring Air Permits

If yes, please describe: _____

7. HAZARDOUS MATERIALS DISCLOSURES

7.1 Has your company prepared or will it be required to prepare a Hazardous Materials management plan ("Management Plan") pursuant to Fire Department or other governmental or regulatory agencies' requirements? Existing tenants should indicate whether or not a Management Plan is required and has been prepared.

Yes [] No []

If yes, attach a copy of the Management Plan. Existing tenants should attach a copy of any required updates to the Management Plan.

7.2 Are any of the Hazardous Materials, and in particular chemicals, proposed to be used in your operations in, on or about the Premises regulated under Proposition 65? Existing tenants should indicate whether or not there are any new Hazardous Materials being so used which are regulated under Proposition 65.

Yes [] No []

Yes [] No []

If yes, please explain: _____

8. ENFORCEMENT ACTIONS AND COMPLAINTS

8.1 With respect to Hazardous Materials or Environmental Laws, has your company ever been subject to any agency enforcement actions, administrative orders, or consent decrees or has your company received requests for information, notice or demand letters, or any other inquiries regarding its operations? Existing tenants should indicate whether or not any such actions, orders or decrees have been, or are in the process of being, undertaken or if any such requests have been received.

Yes [] No []

If yes, describe the actions, orders or decrees and any continuing compliance obligations imposed as a result of these actions, orders or decrees and also describe any requests, notices or demands, and attach a copy of all such documents. Existing tenants should describe and attach a copy of any new actions, orders, decrees, requests, notices or demands not already delivered

to Landlord pursuant to the provisions of Section 29 of the signed Lease Agreement.

8.2 Have there ever been, or are there now pending, any lawsuits against your company regarding any environmental or health and safety concerns?

Yes No

If yes, describe any such lawsuits and attach copies of the complaint(s), cross-complaint(s), pleadings and all other documents related thereto as requested by Landlord. Existing tenants should describe and attach a copy of any new complaint(s), cross-complaint(s), pleadings and other related documents not already delivered to Landlord pursuant to the provisions of Section 29 of the signed Lease Agreement.

8.3 Have there been any problems or complaints from adjacent tenants, owners or other neighbors at your company's current facility with regard to environmental or health and safety concerns? Existing tenants should indicate whether or not there have been any such problems or complaints from adjacent tenants, owners or other neighbors at, about or near the Premises.

Yes No

If yes, please describe. Existing tenants should describe any such problems or complaints not already disclosed to Landlord under the provisions of the signed Lease Agreement.

9. PERMITS AND LICENSES

9.1 Attach copies of all Hazardous Materials permits and licenses including a Transporter Permit number issued to your company with respect to its proposed operations in, on or about the Premises, including, without limitation, any wastewater discharge permits, air emissions permits, and use permits or approvals. Existing tenants should attach copies of any new permits and licenses as well as any renewals of permits or licenses previously issued.

The undersigned hereby acknowledges and agrees that (A) this Hazardous Materials Disclosure Certificate is being delivered in connection with, and as required by, Landlord in connection with the evaluation and finalization of a Lease Agreement and will be attached thereto as an exhibit; (B) that this Hazardous Materials Disclosure Certificate is being delivered in accordance with, and as required by, the provisions of Section 29 of the Lease Agreement; and (C) that Tenant shall have and retain full and complete responsibility and liability with respect to any of the Hazardous Materials disclosed in the HazMat Certificate notwithstanding Landlord's/Tenant's receipt and/or approval of such certificate. Tenant further agrees that none of the following described acts or events shall be construed or otherwise interpreted as either (a) excusing, diminishing or otherwise limiting Tenant from the requirement to fully and faithfully perform its obligations under the Lease with respect to Hazardous Materials, including, without limitation, Tenant's indemnification of the Indemnitees and compliance with all Environmental Laws, or (b) imposing upon Landlord, directly or indirectly, any duty or liability with respect to any such Hazardous Materials, including, without limitation, any duty on Landlord to investigate or otherwise verify the accuracy of the representations and statements made therein or to ensure that Tenant is in compliance with all Environmental Laws; (i) the delivery of such certificate to Landlord and/or Landlord's acceptance of such certificate, (ii) Landlord's review and approval of such certificate, (iii) Landlord's failure to obtain such certificate from Tenant at any time, or (iv) Landlord's actual or constructive knowledge of the types and quantities of Hazardous Materials being used, stored, generated, disposed of or transported on or about the Premises by Tenant or Tenant's Representatives. Notwithstanding the foregoing

or anything to the contrary contained herein, the undersigned acknowledges and agrees that Landlord and its partners, lenders and representatives may, and will, rely upon the statements, representations, warranties, and certifications made herein and the truthfulness thereof in entering into the Lease Agreement and the continuance thereof throughout the term, and any renewals thereof, of the Lease Agreement.

I (print name) _____, acting with full authority to bind the (proposed) Tenant and on behalf of the (proposed) Tenant, certify, represent and warrant that the information contained in this certificate is true and correct.

(PROSPECTIVE) TENANT:

By: _____

Title: _____

Date: _____

INITIALS:

TENANT: _____

LANDLORD: _____

EXHIBIT F
FIRST AMENDMENT TO LEASE AGREEMENT
CHANGE OF COMMENCEMENT DATE

This First Amendment to Lease Agreement (the "Amendment") is made and entered into as of _____, by and between _____ ("LANDLORD"), AND _____ ("TENANT"), with reference to the following facts:

RECITALS

A. Landlord and Tenant have entered into that certain Lease Agreement dated _____ (the "Lease"), for the leasing of certain premises located at _____, California (the "Premises") as such Premises are more fully described in the Lease.

B. Landlord and Tenant wish to amend the Commencement Date of the Lease.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. The Commencement Date of the Lease shall be _____.

2. The last day of the Term of the Lease (the "Expiration Date") shall be _____.

3. The dates on which the Base Rent will be adjusted are:

for the period _____ to _____ the monthly Base Rent shall be \$ _____;
for the period _____ to _____ the monthly Base Rent shall be \$ _____; and
for the period _____ to _____ the monthly Base Rent shall be \$ _____.

4. Effect of Amendment: Except as modified herein, the terms and conditions of the Lease shall remain unmodified and continue in full force and effect. In the event of any conflict between the terms and conditions of the Lease and this Amendment, the terms and conditions of this Amendment shall prevail.

5. Definitions: Unless otherwise defined in this Amendment, all terms not defined in this Amendment shall have the meaning set forth in the Lease.

6. Authority: Subject to the provisions of the Lease, this Amendment shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, legal representatives, successors and assigns. Each party hereto and the persons signing below warrant that the person signing below on such party's behalf is authorized to do so and to bind such party to the terms of this Amendment.

7. The terms and provisions of the Lease are hereby incorporated in this Amendment.

INITIALS:

TENANT: _____

LANDLORD: _____

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date and year first above written.

[PROPERTY MANAGER: PLEASE PROVIDE TENANT INFORMATION AND WORD PROCESSING WILL COMPLETE THE SIGNATURE BLOCK]

INITIALS:

TENANT: ____

LANDLORD: ____

EXHIBIT G

TENANT'S INITIAL HAZARDOUS MATERIALS DISCLOSURE CERTIFICATE

Your cooperation in this matter is appreciated. Initially, the information provided by you in this Hazardous Materials Disclosure Certificate is necessary for the Landlord (identified below) to evaluate and finalize a lease agreement with you as tenant. After a lease agreement is signed by you and the Landlord (the "Lease Agreement"), on an annual basis in accordance with the provisions of Section 29 of the signed Lease Agreement, you are to provide an update to the information initially provided by you in this certificate. The information contained in the initial Hazardous Materials Disclosure Certificate and each annual certificate provided by you thereafter will be maintained in confidentiality by Landlord subject to release and disclosure as required by (i) any lenders and owners and their respective environmental consultants, (ii) any prospective purchaser(s) of all or any portion of the property on which the Premises are located, (iii) Landlord to defend itself or its lenders, partners or representatives against any claim or demand, and (iv) any laws, rules, regulations, orders, decrees, or ordinances, including, without limitation, court orders or subpoenas. Any and all capitalized terms used herein, which are not otherwise defined herein, shall have the same meaning ascribed to such term in the signed Lease Agreement. Any questions regarding this certificate should be directed to, and when completed, the certificate should be delivered to:

Landlord:

 c/o Lincoln Property Company Management Services, Inc. 101 Lincoln Centre Drive, Fourth Floor Foster City, California 94404
 Attn: _____ Phone: (415) 571-2200

Name of (Prospective) Tenant: _____

Mailing Address: _____

Contact Person, Title and Telephone Number(s): _____

Contact Person for Hazardous Waste Materials Management and Manifests and Telephone Number (s): _____

Address of (Prospective) Premises: _____

Length of (Prospective) initial Term: _____

1. GENERAL INFORMATION:

Describe the initial proposed operations to take place in, on, or about the Premises, including, without limitation, principal products processed, manufactured or assembled services and activities to be provided or otherwise conducted. Existing tenants should describe any proposed changes to on-going operations.

2. USE, STORAGE AND DISPOSAL OF HAZARDOUS MATERIALS

2.1 Will any Hazardous Materials be used, generated, stored or disposed of in, on or about the Premises? Existing tenants should describe any Hazardous Materials which continue to be used, generated, stored or disposed of in, on or about

the Premises.

Wastes Yes [] No []
 Chemical Products Yes [] No []
 Other Yes [] No []

If Yes is marked, please explain: _____

2.2 If Yes is marked in Section 2.1, attach a list of any Hazardous Materials to be used, generated, stored or disposed of in, on or about the Premises, including the applicable hazard class and an estimate of the quantities of such Hazardous Materials at any given time; estimated annual throughput; the proposed location(s) and method of storage (excluding nominal amounts of ordinary household cleaners and janitorial supplies which are not regulated by any Environmental Laws); and the proposed location(s) and method of disposal for each Hazardous Material, including, the estimated frequency, and the proposed contractors or subcontractors. Existing tenants should attach a list setting forth the information requested above and such list should include actual data from on-going operations and the identification of any variations in such information from the prior year's certificate.

3. STORAGE TANKS AND SUMPS

3.1 Is any above or below ground storage of gasoline, diesel, petroleum, or other Hazardous Materials in tanks or sumps proposed in, on or about the Premises? Existing tenants should describe any such actual or proposed activities.

Yes No

If yes, please explain: _____

4. WASTE MANAGEMENT

4.1 Has your company been issued an EPA Hazardous Waste Generator I.D. Number? Existing tenants should describe any additional identification numbers issued since the previous certificate.

Yes No

4.2 Has your company filed a biennial or quarterly reports as a hazardous waste generator? Existing tenants should describe any new reports filed.

Yes No

If yes, attach a copy of the most recent report filed.

5. WASTEWATER TREATMENT AND DISCHARGE

5.1 Will your company discharge wastewater or other wastes to:

<input type="checkbox"/> storm drain?	<input type="checkbox"/> sewer?
<input type="checkbox"/> surface water?	<input type="checkbox"/> no wastewater or other wastes discharged.

Existing tenants should indicate any actual discharges. If so, describe the nature of any proposed or actual discharge(s).

5.2 Will any such wastewater or waste be treated before discharge?

Yes No

If yes, describe the type of treatment proposed to be conducted. Existing tenants should describe the actual treatment conducted.

6. AIR DISCHARGES

6.1 Do you plan for any air filtration systems or stacks to be used in your company's operations in, on or about the Premises that will discharge into the air; and will such air emissions be monitored? Existing tenants should indicate whether or not there are any such air filtration systems or stacks in use in, on or about the Premises which discharge into the air and whether such air emissions are being monitored.

Yes [] No []

If yes, please describe: _____

6.2 Do you propose to operate any of the following types of equipment, or any other equipment requiring an air emissions permit? Existing tenants should specify any such equipment being operated in, on or about the Premises.

- | | |
|----------------------|---|
| _____ Spray booth(s) | _____ Incinerator(s) |
| _____ Dip tank(s) | _____ Other (Please describe) |
| _____ Drying oven(s) | _____ No Equipment Requiring
Air Permits |

If yes, please describe: _____

7. HAZARDOUS MATERIALS DISCLOSURES

7.1 Has your company prepared or will it be required to prepare a Hazardous Materials management plan ("Management Plan") pursuant to Fire Department or other governmental or regulatory agencies' requirements? Existing tenants should indicate whether or not a Management Plan is required and has been prepared.

Yes [] No []

If yes, attach a copy of the Management Plan. Existing tenants should attach a copy of any required updates to the Management Plan.

7.2 Are any of the Hazardous Materials, and in particular chemicals, proposed to be used in your operations in, on or about the Premises regulated under Proposition 65? Existing tenants should indicate whether or not there are any new Hazardous Materials being so used which are regulated under Proposition 65.

Yes [] No []

If yes, please explain: _____

8. ENFORCEMENT ACTIONS AND COMPLAINTS

8.1 With respect to Hazardous Materials or Environmental Laws, has your company ever been subject to any agency enforcement actions, administrative orders, or consent decrees or has your company received requests for information, notice or demand letters, or any other inquiries regarding its operations? Existing tenants should indicate whether or not any such actions, orders or decrees have been, or are in the process of being, undertaken or if any such requests have been received.

Yes [] No []

If yes, describe the actions, orders or decrees and any continuing compliance obligations imposed as a result of these actions, orders or decrees and also describe any requests, notices or demands, and attach a copy of all such documents. Existing tenants should describe and attach a copy of any new actions, orders, decrees, requests, notices or demands not already delivered

to Landlord pursuant to the provisions of Section 29 of the signed Lease Agreement.

8.2 Have there ever been, or are there now pending, any lawsuits against your company regarding any environmental or health and safety concerns?

Yes No

If yes, describe any such lawsuits and attach copies of the complaint(s), cross-complaint(s), pleadings and all other documents related thereto as requested by Landlord. Existing tenants should describe and attach a copy of any new complaint(s), cross-complaint(s), pleadings and other related documents not already delivered to Landlord pursuant to the provisions of Section 29 of the signed Lease Agreement.

8.3 Have there been any problems or complaints from adjacent tenants, owners or other neighbors at your company's current facility with regard to environmental or health and safety concerns? Existing tenants should indicate whether or not there have been any such problems or complaints from adjacent tenants, owners or other neighbors at, about or near the Premises.

Yes No

If yes, please describe. Existing tenants should describe any such problems or complaints not already disclosed to Landlord under the provisions of the signed Lease Agreement.

9. PERMITS AND LICENSES

9.1 Attach copies of all Hazardous Materials permits and licenses including a Transporter Permit number issued to your company with respect to its proposed operations in, on or about the Premises, including, without limitation, any wastewater discharge permits, air emissions permits, and use permits or approvals. Existing tenants should attach copies of any new permits and licenses as well as any renewals of permits or licenses previously issued.

The undersigned hereby acknowledges and agrees that (A) this Hazardous Materials Disclosure Certificate is being delivered in connection with, and as required by, Landlord in connection with the evaluation and finalization of a Lease Agreement and will be attached thereto as an exhibit; (B) that this Hazardous Materials Disclosure Certificate is being delivered in accordance with, and as required by, the provisions of Section 29 of the Lease Agreement; and (C) that Tenant shall have and retain full and complete responsibility and liability with respect to any of the Hazardous Materials disclosed in the HazMat Certificate notwithstanding Landlord's/Tenant's receipt and/or approval of such certificate. Tenant further agrees that none of the following described acts or events shall be construed or otherwise interpreted as either (a) excusing, diminishing or otherwise limiting Tenant from the requirement to fully and faithfully perform its obligations under the Lease with respect to Hazardous Materials, including, without limitation, Tenant's indemnification of the Indemnitees and compliance with all Environmental Laws, or (b) imposing upon Landlord, directly or indirectly, any duty or liability with respect to any such Hazardous Materials, including, without limitation, any duty on Landlord to investigate or otherwise verify the accuracy of the representations and statements made therein or to ensure that Tenant is in compliance with all Environmental Laws; (i) the delivery of such certificate to Landlord and/or Landlord's acceptance of such certificate, (ii) Landlord's review and approval of such certificate, (iii) Landlord's failure to obtain such certificate from Tenant at any time, or (iv) Landlord's actual or constructive knowledge of the types and quantities of Hazardous Materials being used, stored, generated, disposed of or transported on or about the Premises by Tenant or Tenant's Representatives. Notwithstanding the foregoing

or anything to the contrary contained herein, the undersigned acknowledges and agrees that Landlord and its partners, lenders and representatives may, and will, rely upon the statements, representations, warranties, and certifications made herein and the truthfulness thereof in entering into the Lease Agreement and the continuance thereof throughout the term, and any renewals thereof, of the Lease Agreement.

I (print name) , acting with full authority to bind the (proposed) Tenant and on behalf of the (proposed) Tenant, certify, represent and warrant that the information contained in this certificate is true and correct.

(PROSPECTIVE) TENANT:

By: _____

Title: _____

Date: _____

INITIALS :

TENANT : _____

LANDLORD : _____

ADDENDUM 1
FIRST OPTION TO EXTEND THE LEASE

This Addendum 1 is incorporated as a part of that certain Lease Agreement, dated December 18, 1996 (the "Lease"), by and between Lincoln-Whitehall Realty (West), L.L.C., a Delaware limited liability company ("Landlord"), and Cisco Systems, Inc., a California corporation ("Tenant"), of those certain premises located at 130 and 140 Baytech Drive (Buildings C & D), San Jose, California (the "Premises"). Any capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed to such terms as set forth in the Lease.

1. **GRANT OF EXTENSION OPTION.** Subject to the provisions of Sections 5 and 6 hereinbelow, if Tenant has not at any time been in default of its obligations beyond applicable cure periods more than three (3) times in any twelve-month period ("Chronic Default"), or at the time of Tenant's exercise of this option, is currently not, in default in the performance of any of its obligations under this Lease beyond applicable cure periods, and contingent upon review and approval of Tenant's then current financial condition by Landlord [which financial condition shall be deemed to be acceptable to Landlord so long as Tenant, at the time of exercise of this option and for the prior twelve month period of time prior to Tenant's exercise of this option, has a net worth of at least One Hundred Million Dollars (\$100,000,000.00)], Tenant shall have the right at its option (the "First Option") to extend the initial term of the Lease for an additional period of one (1) year (the "First Extended Term").

2. **TENANT'S FIRST OPTION NOTICE.** If Landlord does not receive written notice from Tenant of its exercise of this First Option on a date which is not more than five hundred forty (540) days nor less than three hundred sixty (360) days prior to the end of the initial term of the Lease (the "First Option Notice"), all rights of Tenant in, to and under this First Option shall automatically lapse and terminate and shall be of no further force or effect. Time is of the essence herein.

3. **ESTABLISHING THE MONTHLY BASE RENT FOR THE FIRST EXTENDED TERM.** In the event Tenant duly exercises its rights under this First Option, the monthly Base Rent payable by Tenant to Landlord during the First Extended Term shall be one hundred forty thousand one hundred forty-two and 75/100 dollars (\$140,142.75). If Tenant duly exercises this First Option in accordance with the terms outlined above, Landlord and Tenant shall immediately execute, at Landlord's sole option, either the standard lease agreement then in use by Landlord, or an amendment to this Lease. Such new lease agreement or amendment, as the case may be, shall set forth among other things, the monthly Base Rent quoted above for the First Extended Term and the actual commencement date and expiration date of the First Extended Term. Tenant shall have no other right to extend the initial term of the Lease under this Addendum 1 unless Landlord and Tenant otherwise agree in writing.

4. **CONDITION OF PREMISES AND BROKERAGE COMMISSIONS FOR THE FIRST EXTENDED TERM.** If Tenant duly exercises this First Option in accordance with the terms contained herein, the following shall apply: (1) Tenant shall accept the Premises in its then "As-Is" condition and, accordingly, Landlord shall not be required to perform nor install any additional improvements to the Premises; and (2) Tenant hereby agrees that it will be solely responsible for any and all brokerage commissions and finder's fees payable to any broker except for Landlord's broker in connection with the First Option described herein, and Tenant hereby further agrees that Landlord shall in no event or circumstance be responsible for the payment of any such commissions and fees.

5. **LIMITATIONS ON, AND CONDITIONS TO, FIRST EXTENSION OPTION.** Except as otherwise provided below, this First Option is personal to Tenant and except for a Related Entity may not be assigned, voluntarily or involuntarily, separate from or as part of the Lease, unless Landlord otherwise expressly consents in writing to such assignment. At Landlord's option, all rights of Tenant under this First Option shall terminate and be of no force or effect if any of the following individual events occur or any combination thereof occur: (1) Tenant or the Related Entity, as applicable, has been in Chronic Default at any time during the initial term of the Lease, or at the time of exercise of the First Option is then currently in default of any provision of the Lease beyond applicable cure periods; and/or (2) Tenant has

assigned its rights and obligations under all or part of the Lease to any party or entity other than a Related Entity, or Tenant has subleased all or part of the Premises to any party or entity other than a Related Entity, unless Landlord otherwise expressly consents in writing to such assignment or sublease, which consent shall not be unreasonably withheld, and/or (3) Tenant's or the Related Entity's (as applicable) financial condition is unacceptable to Landlord at the time the First Option Notice is delivered to Landlord [which financial condition shall be deemed to be acceptable to Landlord so long as Tenant or the Related Entity, as applicable, at the time of exercise of this First Option and for the prior twelve month period of time prior to delivery of the First Option Notice, has a net worth of at least One Hundred Million Dollars (\$100,000,000.00)]; and/or (4) Tenant or the Related Entity (as applicable) has failed to exercise this First Option in a timely manner and in strict accordance with the provisions of this Addendum 1; and/or (5) Tenant, a Related Entity, or a third party subtenant or assignee for which Landlord has expressly consented, as the case may be, no longer has possession of all or any part of the Premises under the Lease, or if the Lease has been terminated earlier, pursuant to the terms of the Lease.

6. RECAPTURE AND EXCESS SUBLEASE RENTAL OR ASSIGNMENT CONSIDERATION. Notwithstanding anything to the contrary contained in the Lease or herein, if

(I) the Term of the First Lease has expired or the First Lease has been earlier terminated for any reason whatsoever, in whole or in part, and (II) during the First Extended Term Tenant proposes to sublease or assign this Lease to a party other than a Related Entity, then for the time period during which there is any vacancy in Building A and/or Building B (as referred to in the First Lease) Landlord shall have the right, to be exercised by giving written notice to Tenant, to either (1) recapture the space described in the proposed sublease or assignment, or (2) consent to such proposed sublease or assignment, (which consent shall not be unreasonably withheld) in which event Tenant shall pay Landlord monthly, as Additional Rent, at the same time as the monthly installments of Rent are payable hereunder, fifty percent (50%) of the excess of each such payment of rent or other consideration in excess of the Rent called for hereunder, after deduction of the actual brokerage commission (if any) paid by Tenant in connection with such proposed sublease or assignment, where the rent or other consideration provided for in the proposed sublease or assignment either initially or over the term of the sublease or assignment exceeds the Rent or pro rata portion of the Rent, as the case may be, for such space reserved in the Lease. If such recapture notice is given, it shall serve to terminate this Lease with respect to the proposed sublease or assignment space, or, if the proposed sublease or assignment space covers all the Premises for the First Extended Term, it shall serve to terminate the entire term of this Lease in either case, as of the Proposed Effective Date, with respect to such space.

INITIALS:

TENANT: _____

LANDLORD: _____

ADDENDUM 2
SECOND OPTION TO EXTEND THE LEASE

This Addendum 2 is incorporated as a part of that certain Lease Agreement, dated December 18, 1996 (the "Lease"), by and between Lincoln-Whitehall Realty (West), L.L.C., a Delaware limited liability company ("Landlord"), and Cisco Systems, Inc., a California corporation ("Tenant"), of those certain premises located at 130 and 140 Baytech Drive (Buildings C & D), San Jose, California (the "Premises"). Any capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed to such terms as set forth in the Lease.

1. **GRANT OF EXTENSION OPTION.** Subject to the provisions of Sections 5 and 6 hereinbelow, if (i) Tenant has not at any time been in Chronic Default, or at the time of Tenant's exercise of this Second Option, is currently not, in default in the performance of any of its obligations under this Lease beyond any applicable cure periods, (ii) Tenant has duly exercised the First Option in accordance with the provisions of Addendum 1 to the Lease, and (iii) contingent upon review and approval of Tenant's then current financial condition by Landlord [which financial condition shall be deemed to be acceptable to Landlord so long as Tenant, at the time of exercise of this option and for the prior twelve month period of time prior to Tenant's exercise of this Second Option, has a net worth of at least One Hundred Million Dollars (\$100,000,000.00)], Tenant shall have the right at its option (the "Second Option") to further extend the term of the Lease for an additional one (1) year period (the "Second Extended Term").

2. **TENANT'S SECOND OPTION NOTICE.** If Landlord does not receive written notice from Tenant of its exercise of this Second Option on a date which is not more than five hundred forty (540) days nor less than three hundred sixty (360) days prior to the end of the First Extended Term of the Lease (the "Second Option Notice"), all rights of Tenant in, to and under this Second Option shall automatically lapse and terminate and shall be of no further force or effect. Time is of the essence herein.

3. **ESTABLISHING THE MONTHLY BASE RENT FOR THE SECOND EXTENDED TERM.** In the event Tenant duly exercises its rights under this Second Option, the monthly Base Rent payable by Tenant to Landlord during the Second Extended Term shall be one hundred forty-four thousand three hundred eighty-nine and 50/100 dollars (\$144,389.50). If Tenant duly exercises this Second Option in accordance with the terms outlined above, Landlord and Tenant shall immediately execute, at Landlord's sole option, either the standard lease agreement then in use by Landlord, or an amendment to this Lease. Such new lease agreement or amendment, as the case may be, shall set forth among other things, the monthly Base Rent quoted above for the Second Extended Term and the actual commencement date and expiration date of the Second Extended Term. Tenant shall have no other right to extend the then applicable term of the Lease under this Addendum 2 unless Landlord and Tenant otherwise agree in writing.

4. **CONDITION OF PREMISES AND BROKERAGE COMMISSIONS FOR THE SECOND EXTENDED TERM.** If Tenant duly exercises this Second Option in accordance with the terms contained herein: (1) Tenant shall accept the Premises in its then "As-Is" condition and, accordingly, Landlord shall not be required to perform nor install any additional improvements to the Premises; and (2) Tenant hereby agrees that it will be solely responsible for any and all brokerage commissions and finder's fees payable to any broker except for Landlord's broker in connection with the Second Option described herein, and Tenant hereby further agrees that Landlord shall in no event or circumstance be responsible for the payment of any such commissions and fees.

5. **LIMITATIONS ON, AND CONDITIONS TO, SECOND EXTENSION OPTION.** Except as otherwise provided herein, this Second Option is personal to Tenant and except for a Related Entity may not be assigned, voluntarily or involuntarily, separate from or as part of the Lease, unless Landlord otherwise expressly consents in writing to such assignment. At Landlord's option, all rights of Tenant under this First Option shall terminate and be of no force or effect if any of the following individual events occur or any combination thereof occur: (1) Tenant or the Related Entity, as applicable, has been in Chronic Default at any time during the initial term or First Extended Term of the Lease, or at the time of exercise of the

Second Option is then currently in default of any provision of the Lease beyond applicable cure periods; and/or (2) Tenant has assigned its rights and obligations under all or part of the Lease to any party or entity other than a Related Entity, or Tenant has subleased all or part of the Premises to any party or entity other than a Related Entity, unless Landlord otherwise expressly consents in writing to such assignment or sublease, which consent shall not be unreasonably withheld, and/or (3) Tenant's or the Related Entity's (as applicable) financial condition is unacceptable to Landlord at the time the Second Option Notice is delivered to Landlord [which financial condition shall be deemed to be acceptable to Landlord so long as Tenant or the Related Entity, as applicable, at the time of exercise of this Second Option and for the prior twelve month period of time prior to delivery of the Second Option Notice, has a net worth of at least One Hundred Million Dollars (\$100,000,000.00)]; and/or (4) Tenant or the Related Entity, as applicable, has failed to exercise the First Option in a timely manner in strict accordance with the provisions of Addendum 1 to the Lease; (5) Tenant or the Related Entity (as applicable) has failed to exercise this Second Option in a timely manner and in strict accordance with the provisions of this Addendum 2; and/or (6) Tenant, a Related Entity, or a third party subtenant or assignee for which Landlord has expressly consented, as the case may be, no longer has possession of all or any part of the Premises under the Lease, or if the Lease has been terminated earlier, pursuant to the terms of the Lease.

6. RECAPTURE AND EXCESS SUBLEASE RENTAL OR ASSIGNMENT CONSIDERATION. Notwithstanding anything to the contrary contained in the Lease or herein, if

(I) the Term of the First Lease has expired or the First Lease has been earlier terminated for any reason whatsoever, in whole or in part, and (II) during the Second Extended Term Tenant proposes to sublease or assign this Lease to a party other than a Related Entity, then for the time period during which there is any vacancy in Building A and/or Building B (as referred to in the First Lease) Landlord shall have the right, to be exercised by giving written notice to Tenant, to either (1) recapture the space described in the proposed sublease or assignment, or (2) consent to such proposed sublease or assignment, (which consent shall not be unreasonably withheld) in which event Tenant shall pay Landlord monthly, as Additional Rent, at the same time as the monthly installments of Rent are payable hereunder, fifty percent (50%) of the excess of each such payment of rent or other consideration in excess of the Rent called for hereunder, after deduction of the actual brokerage commission (if any) paid by Tenant in connection with such proposed sublease or assignment, where the rent or other consideration provided for in the proposed sublease or assignment either initially or over the term of the sublease or assignment exceeds the Rent or pro rata portion of the Rent, as the case may be, for such space reserved in the Lease. If such recapture notice is given, it shall serve to terminate this Lease with respect to the proposed sublease or assignment space, or, if the proposed sublease or assignment space covers all the Premises for the Second Extended Term, it shall serve to terminate the entire term of this Lease in either case, as of the Proposed Effective Date, with respect to such space.

INITIALS :
TENANT : _____
LANDLORD : _____

EXHIBIT 10.52

[EXECUTION COPY]

MASTER LEASE

THIS DOCUMENT SECURES FUTURE ADVANCES

Dated as of December 27, 1996

between

CISCO SYSTEMS, INC.,
as the Lessee,

and

UBS MORTGAGE FINANCE INC.
as the Lessor.

This Master Lease is subject to a lien in favor of the Lender under the Loan Agreement. This Master Lease has been executed in several counterparts. To the extent, if any, that this Master Lease constitutes chattel paper (as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction), no lien on this Master Lease may be created through the transfer or possession of any counterpart other than the original counterpart containing the receipt therefor executed by UNION BANK OF SWITZERLAND, acting through its New York Branch, as the Lender, on or following the signature page hereof.

This counterpart is [not] the original counterpart.

MASTER LEASE

THIS DOCUMENT SECURES FUTURE ADVANCES

THIS MASTER LEASE (this "Master Lease"), dated as of December 27, 1996, between UBS MORTGAGE FINANCE INC., a New York corporation, as Lessor (in such capacity, the "Lessor") and CISCO SYSTEMS, INC., a California corporation, as Lessee (in such capacity, the "Lessee").

WITNESSETH:

WHEREAS, pursuant to a Participation Agreement dated as of the date hereof (as amended, modified, restated or supplemented from time to time, the "Participation Agreement"), among the Lessee, as Lessee and Construction Agent, the Lessor and Union Bank of Switzerland, acting through its New York Branch, as Lender (the "Lender") under the Loan Agreement, the Lender and the Lessor have agreed to finance the acquisition and construction of each Property;

WHEREAS, on each Acquisition Date, the Lessor will purchase from the Seller certain parcels of Land, together with any Improvements thereon;

WHEREAS, the Lessee, as Construction Agent for the Lessor, will cause the construction of certain Improvements on each Property which as constructed will be the property of the Lessor and will become part of such Property;

WHEREAS, the Lessor desires to lease to the Lessee, and the Lessee desires to lease from the Lessor, each Property; and

WHEREAS, each Property will be subject to the terms of this Master Lease;

NOW, THEREFORE, in consideration of the foregoing, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**ARTICLE I
DEFINITIONS**

1.1. Definitions; Interpretation. Capitalized terms used but not otherwise defined in this Master Lease have the respective meanings specified in Appendix A to this Master Lease (as the same may be amended, supplemented, amended and restated or otherwise modified from time to time, "Appendix A to this

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Master Lease"); and the rules of interpretation set forth in Appendix A to this Master Lease shall apply to this Master Lease.

ARTICLE II MASTER LEASE

2.1. Acceptance and Lease of Property. Subject to the conditions set forth in the Participation Agreement, including without limitation the satisfaction or waiver of the conditions set forth in Article VI thereof, the Lessor hereby covenants and agrees to acquire and to accept pursuant to the terms of the Participation Agreement delivery on each Acquisition Date of the Land together with Improvements thereon to be delivered by the Seller on such Acquisition Date and simultaneously to demise and lease to the Lessee hereunder and under the Lease Supplement for the Lease Term, the Lessor's interest in such Land and in such Improvements together with any Improvements which thereafter may be constructed on such Land pursuant to the Construction Agency Agreement or this Master Lease, and the Lessee hereby agrees, expressly for the direct benefit of the Lessor, to lease from the Lessor for the Lease Term, the Lessor's interest in such Land and in such Improvements together with any Improvements which thereafter may be constructed on such Land pursuant to the Construction Agency Agreement and this Master Lease.

2.2. Acceptance Procedure. The Lessee hereby agrees that the execution and delivery by the Lessee on each Acquisition Date of an appropriately completed Lease Supplement in the form of either Exhibit A-1 hereto, or Exhibit A-2 hereto, covering the Land or all Improvements or any Land to be acquired by the Lessor on such Acquisition Date and all other Improvements which thereafter may be constructed thereon pursuant to the Construction Agency Agreement, respectively, and this Master Lease, shall, without further act, constitute the acceptance by the Lessee of all of the Land which is the subject of such Lease Supplement for all purposes of this Master Lease and the other Operative Documents on the terms set forth therein and herein, and that such Land, together with any Improvements constructed on such Land pursuant to the Construction Agency Agreement and this Master Lease, shall be deemed to be included in the leasehold estate of this Master Lease and shall be subject to the terms and conditions of this Master Lease as of such Acquisition Date.

2.3. Lease Term. The Basic Lease Term (Land) (the "Basic Lease Term (Land)") of this Master Lease with respect to any Property (a) shall begin on the earlier of (i) the Completion Date for the first Property on which Improvements are constructed and (ii) the date the Lessee delivers written notice to the

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Lessor requesting commencement of the Basic Lease Term, and (b) end on the Expiration Date. The Basic Lease Term (Improvements) (the "Basic Lease Term (Improvements)" shall begin on the Completion Date for such Property and shall end on the Expiration Date. In the event the Basic Lease Term (Land) or Basic Lease Term (Improvements) commences on any day other than the day following the last day of the then effective Interest Period, the Lessee shall pay any Break Costs associated with the early termination of the Interest Period.

2.4. Title. Each Property is leased to the Lessee without any representation or warranty, express or implied, by the Lessor and subject to the rights of parties in possession, the existing state of title (including, without limitation, all Liens other than Lessor Liens) and all applicable Requirements of Law. The Lessee shall in no event have any recourse against the Lessor for any defect in or exception to title to any Property other than resulting from Lessor Liens attributable to the Lessor.

ARTICLE III PAYMENT OF RENT

3.1. Rent.

(a) During the Lease Term, the Lessee shall pay Basic Rent to the Lessor on each Basic Rent Payment Date, on the date required under Section 20.1(k) in connection with the Lessee's exercise of the Remarketing Option and on any date on which this Master Lease shall terminate with respect to any or all Properties. At least 10 days prior to each Basic Rent Payment Date, the Lessor shall deliver to the Lessee a notice of the exact amount of the Basic Rent due on such date (the "Invoice"). For the purposes of this Section 3.1, delivery of the Invoice by facsimile transmission, receipt confirmed, will be sufficient.

(b) The Lessee's inability or failure to take possession of all or any portion of any Property when delivered by the Lessor attributable to any act or omission of the Lessee shall not delay or otherwise affect the Lessee's obligation to pay Rent for such Property in accordance with the terms of this Master Lease.

3.2. Payment of Rent. Rent shall be paid absolutely net to each Person entitled thereto, so that this Master Lease shall yield to such Person the full amount thereof, without setoff, deduction or reduction.

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3.3. Supplemental Rent. The Lessee shall pay to the Lessor or any other Person entitled thereto any and all Supplemental Rent promptly as the same shall become due and payable, and if the Lessee fails to pay any Supplemental Rent, the Lessor and such other Persons shall have all rights, powers and remedies provided for herein or by law or equity or otherwise. The Lessee shall pay to the Lessor, as Supplemental Rent, among other things, on demand, to the extent permitted by applicable Requirements of Law, interest at the applicable Overdue Rate on any installment of Basic Rent not paid when due for the period for which the same shall be overdue and on any payment of Supplemental Rent not paid when due or demanded by the Lessor for the period from the due date or the date of any such demand, as the case may be, until the same shall be paid. The expiration or other termination of the Lessee's obligations to pay Basic Rent hereunder shall not limit or modify the obligations of the Lessee with respect to Supplemental Rent. Unless expressly provided otherwise in this Master Lease, in the event of any failure on the part of the Lessee to pay and discharge any Supplemental Rent as and when due, the Lessee shall also promptly pay and discharge any fine, penalty, interest or cost which may be assessed or added under any agreement to which Lessee is a party or which is authorized in writing by the Lessee with a third party for nonpayment or late payment of such Supplemental Rent, all of which shall also constitute Supplemental Rent.

3.4. Method of Payment. Each payment of Rent payable by the Lessee to the Lessor under this Lease or any other Operative Document shall be made by the Lessee to the Lender as assignee of the Lessor under the Assignment of Lease (or, if all Loans and all other amounts owing to the Lender under the Loan Agreement and the other Operative Documents have been paid in full and all Commitments of the Lender have been permanently terminated, to the Lessor) prior to 2:00 p.m., New York City time, to the Account in immediately available funds consisting of lawful currency of the United States of America on the date when such payment shall be due. Payments received after 2:00 p.m., New York City time, on the date due shall for the purpose of Section 16.1 hereof be deemed received on such day; provided, however, that for the purposes of the second sentence of Section 3.3 hereof, such payments shall be deemed received on the next succeeding Business Day and, unless the Lender (or the Lessor, as applicable) is otherwise able to invest or employ such funds on the date received, subject to interest at the Overdue Rate as provided in such Section 3.3.

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**ARTICLE IV
QUIET ENJOYMENT; RIGHT TO INSPECT**

4.1. Quiet Enjoyment. Subject to Sections 2.4 and 4.2, and subject to the rights of the Lessor contained in Article XV and the other terms of the Operative Documents to which the Lessee is a party, the Lessee shall peaceably and quietly have, hold and enjoy each Property for the Lease Term, free of any claim or other action by the Lessor or anyone claiming by, through or under the Lessor (other than the Lessee) with respect to any matters arising from and after the applicable Acquisition Date. Such right of quiet enjoyment is independent of, and shall not affect the Lessor's rights otherwise to initiate legal action to enforce the obligations of the Lessee under this Master Lease.

4.2. Right to Inspect. During the Lease Term, the Lessee shall upon reasonable notice from the Lessor, permit the Lessor, the Lender, and their respective authorized representatives to inspect any Property subject to this Master Lease during normal business hours, provided that such inspections shall not unreasonably interfere with the Lessee's business operations at such Property.

**ARTICLE V
NET LEASE, ETC.**

5.1. Net Lease. This Master Lease shall constitute a net lease. Any present or future law to the contrary notwithstanding, this Master Lease shall not terminate, nor shall the Lessee be entitled to any abatement, suspension, deferment, reduction, setoff, counterclaim, or defense with respect to the Rent, nor shall the obligations of the Lessee hereunder be affected (except as expressly herein permitted and by performance of the obligations in connection therewith) by reason of: (i) any defect in the condition, merchantability, design, construction, quality or fitness for use of any Property or any part thereof, or the failure of any Property to comply with all Requirements of Law, including any inability to occupy or use any such Property by reason of such non-compliance; (ii) any damage to, removal, abandonment, salvage, loss, contamination of or Release from, scrapping or destruction of or any requisition or taking of any Property or any part thereof; (iii) any restriction, prevention or curtailment of or interference with the construction on or any use of any Property or any part thereof including eviction; (iv) any defect in title to or rights to any Property or any Lien on such title or rights or on any Property (other than Lessor Liens); (v) any change, waiver, extension, indulgence or other action or omission or breach in

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respect of any obligation or liability of or by the Lessor or the Lender; (vi) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceedings relating to the Lessee, the Lessor, the Lender or any other Person, or any action taken with respect to this Master Lease by any trustee or receiver of the Lessee, the Lessor, the Lender or any other Person, or by any court, in any such proceeding; (vii) any claim that the Lessee has or might have against any Person, including without limitation the Lessor, the Lender, or any vendor, manufacturer, contractor of or for any Property; (viii) any failure on the part of the Lessor or any other Lessor to perform or comply with any of the terms of this Master Lease (other than performance by the Lessor of its obligations set forth in Section 2.1 hereof), of any other Operative Document or of any other agreement; (ix) any invalidity or unenforceability or illegality or disaffirmance of this Master Lease against or by the Lessee or any provision hereof or any of the other Operative Documents or any provision of any thereof; (x) the impossibility or illegality of performance by the Lessee, the Lessor or both; (xi) any action by any court, administrative agency or other Governmental Authority; or (xii) any other cause or circumstances whether similar or dissimilar to the foregoing and whether or not the Lessee shall have notice or knowledge of any of the foregoing. The Lessee's agreement in the preceding sentence shall not affect any claim, action or right the Lessee may have against the Lessor or any other Participant. The parties intend that the obligations of the Lessee hereunder shall be covenants and agreements that are separate and independent from any obligations of the Lessor hereunder or under any other Operative Documents and the obligations of the Lessee shall continue unaffected unless such obligations shall have been modified or terminated in accordance with an express provision of this Master Lease.

5.2. No Termination or Abatement. The Lessee shall remain obligated under this Master Lease in accordance with its terms and shall not take any action to terminate, rescind or avoid this Master Lease (except as provided herein), notwithstanding any action for bankruptcy, insolvency, reorganization, liquidation, dissolution, or other proceeding affecting the Lessor or any Participant, or any action with respect to this Master Lease which may be taken by any trustee, receiver or liquidator of the Lessor or any Participant or by any court with respect to the Lessor or any Participant. The Lessee hereby waives all right (i) to terminate or surrender this Master Lease (except as provided herein) or (ii) except as a consequence of a reduction in the Lease Balance as a result of Casualty or Condemnation proceeds pursuant to the terms of Section 14.1 of this Master Lease, or as a result of a purchase of any or all of the

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Properties pursuant to Section 18.1 of this Master Lease, to avail itself of any abatement, suspension, deferment, reduction, setoff, counterclaim or defense with respect to the Lease Balance. The Lessee shall remain obligated under this Master Lease in accordance with its terms and the Lessee hereby waives any and all rights now or hereafter conferred by statute or otherwise to modify or to avoid strict compliance with its obligations under this Master Lease. Notwithstanding any such statute or otherwise, the Lessee shall be bound by all of the terms and conditions contained in this Master Lease.

ARTICLE VI SUBLEASES

6.1. Subletting. The Lessee may from time to time, sublease any Property or any portion thereof to any Person and to extend, modify or renew any sublease without the approval of Lessor or Lender; provided, however, that: (a) no sublease or other relinquishment of possession of any Property shall in any way discharge or diminish any of the Lessee's obligations to the Lessor hereunder and the Lessee shall remain directly and primarily liable under this Master Lease as to the Properties, or portion thereof, so sublet; (b) each sublease of any Property shall expressly be made subject to and subordinated to this Master Lease and to the rights of the Lessor hereunder; and (c) each sublease shall expressly provide for the surrender of the applicable Property or portion thereof by the applicable sublessee at the election of the Lender or the Lessor (as applicable) after the occurrence of a Lease Event of Default.

ARTICLE VII LESSEE ACKNOWLEDGMENTS

7.1. Condition of the Properties. THE LESSEE ACKNOWLEDGES AND AGREES THAT ALTHOUGH THE LESSOR WILL OWN AND HOLD TITLE TO THE IMPROVEMENTS, THE LESSEE, ACTING AS CONSTRUCTION AGENT, IS SOLELY RESPONSIBLE UNDER THE TERMS OF THE CONSTRUCTION AGENCY AGREEMENT FOR THE DESIGN, DEVELOPMENT, BUDGETING AND CONSTRUCTION OF THE IMPROVEMENTS AND ANY ALTERATIONS OR MODIFICATIONS. THE LESSEE FURTHER ACKNOWLEDGES AND AGREES THAT IT IS LEASING EACH PROPERTY "AS IS" WITHOUT REPRESENTATION, WARRANTY OR COVENANT (EXPRESS OR IMPLIED) BY THE LESSOR OR THE LENDER AND IN EACH CASE SUBJECT TO (A) THE EXISTING STATE OF TITLE (EXCLUDING LESSOR LIENS), (B) THE RIGHTS OF ANY PARTIES IN POSSESSION THEREOF, (C) ANY STATE OF FACTS WHICH AN ACCURATE SURVEY OR PHYSICAL INSPECTION MIGHT SHOW, AND (D) VIOLATIONS OF REQUIREMENTS OF LAW WHICH MAY EXIST ON THE DATE HEREOF OR ON THE ACQUISITION DATE FOR

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SUCH PROPERTY. NEITHER THE LESSOR NOR THE LENDER HAS MADE OR SHALL BE DEEMED TO HAVE MADE ANY REPRESENTATION, WARRANTY OR COVENANT (EXPRESS OR IMPLIED) OR SHALL BE DEEMED TO HAVE ANY LIABILITY WHATSOEVER AS TO THE TITLE (OTHER THAN FOR LESSOR LIENS ATTRIBUTABLE TO THE LESSOR OR THE LENDER), VALUE, HABITABILITY, USE, CONDITION, DESIGN, OPERATION, OR FITNESS FOR USE OF ANY PROPERTY (OR ANY

PART THEREOF), OR ANY OTHER REPRESENTATION, WARRANTY OR COVENANT (EXCEPT SECTION

4.1 HEREOF) WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY PROPERTY (OR ANY

PART THEREOF) AND NEITHER THE LESSOR NOR THE LENDER SHALL BE LIABLE FOR ANY

LATENT, HIDDEN, OR PATENT DEFECT THEREIN (OTHER THAN FOR LESSOR LIENS ATTRIBUTABLE TO THE LESSOR OR THE LENDER) OR THE FAILURE OF ANY PROPERTY, OR ANY

PART THEREOF, TO COMPLY WITH ANY REQUIREMENT OF LAW.

7.2. Risk of Loss. Subject to the terms of Section 14.1 of this Master Lease, during the Lease Term the risk of loss of or decrease in the enjoyment and beneficial use of the Properties as a result of the damage or destruction thereof by fire, the elements, casualties, thefts, riots, wars or otherwise is assumed by the Lessee, and except for loss or damages arising from the gross negligence or willful misconduct of Lessor or Lender or their respective agents, employees or contractors, neither the Lessor nor the Lender shall in any event be answerable or accountable to Lessee therefor.

ARTICLE VIII POSSESSION AND USE OF THE PROPERTIES, ETC.

8.1. Utility Charges. The Lessee shall pay or cause to be paid all charges for electricity, power, gas, oil, water, telephone, sanitary sewer service and all other rents and utilities used in or on the Properties during the Lease Term. The Lessee shall be entitled to receive any credit or refund with respect to any utility charge paid by the Lessee and the amount of any credit or refund received by the Lessor on account of any utility charges paid by the Lessee, net of the costs and expenses reasonably incurred by the Lessor in obtaining such credit or refund, shall be promptly paid over to the Lessee.

8.2. Possession and Use of the Property. Prior to the Completion Date, each Property shall be used in a manner consistent with the Construction Agency Agreement and, after the Completion Date for such Property, as set forth in the applicable lease supplement, and not less than the standards applied by the Lessee for other comparable properties owned or leased by the Lessee. The Lessee shall pay, or cause to be paid, all charges and costs required in connection with the use of the Properties

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as contemplated by this Master Lease and the Construction Agency Agreement. The Lessee shall not commit or permit any waste of the Properties or any part thereof.

8.3. Compliance with Requirements of Laws and Insurance Requirements. Subject to the terms of Article XII relating to permitted contests, the Lessee, at its sole cost and expense, shall (a) comply in all material respects with all Requirements of Law (including all Hazardous Materials Laws) and Insurance Requirements relating to the Properties, including the use, construction, operation, maintenance, repair and restoration thereof and the remarketing thereof pursuant to Article XX, whether or not compliance therewith shall require structural or extraordinary changes in the Improvements or interfere with the use and enjoyment of the Properties, and (b) procure, maintain and comply with all licenses, permits, orders, approvals, consents and other authorizations required for the construction, use, maintenance and operation of the Properties and for the use, operation, maintenance, repair and restoration of the Improvements. Notwithstanding the preceding sentence, the Lessee shall be deemed to be in compliance with all Hazardous Materials Laws for purposes of this Master Lease notwithstanding any Environmental Violation if the severity of such Environmental Violation is less than Federal, state or local standards requiring remediation or removal or, if such standards are exceeded, remediation or removal is proceeding in accordance with all applicable Hazardous Materials Laws.

8.4. Assignment by Lessee. The Lessee may not assign this Master Lease or any of its rights or obligations hereunder in whole or in part to any Person, except that the Lessee may Sublease any Property or portion thereof as permitted under Section 6.1. Notwithstanding the foregoing sentence, the Lessee may, so long as no Event of Default has occurred and is continuing, or would result therefrom, upon prior written notice to each of the Lessor and the Lender, assign this Master Lease and all of the Lessee's rights and obligations hereunder to an Affiliate of the Lessee pursuant to an assignment and assumption agreement and such other documentation, including opinions of counsel, all in form and substance reasonably satisfactory to the Lessor and the Lender; provided, that, in any event of such assignment, the Lessee shall execute and deliver a guaranty in form and substance and in all respects satisfactory to the Lessor and the Lender pursuant to which the Lessee shall guaranty the full and punctual payment and performance of all obligations of such Affiliate as the "Lessee" hereunder and under the other Operative Documents.

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8.5. Phase Two Improvements. The Lessor agrees that it will negotiate in good faith with the Lessee with regard to any proposals that the Lessee may make with respect to the construction of improvements on any portions of the Land which are not intended to be developed as a part of the Improvements nor constructed or otherwise purchased with amounts advanced by the Participants pursuant to the Operative Documents, including specifically any financing involving a third party unrelated to the Lender or the Lessor or any improvements paid for by the Lessee (any such improvements being referred to herein, collectively, as the "Phase Two Improvements"). The Lessee shall have the right to construct Phase Two Improvements on any unimproved portion of the Land, subject to the Lessor's consent which shall not be unreasonably withheld. In furtherance of the foregoing, the Lessor shall give reasonable consideration to (including with respect to the taking of any action reasonably requested in connection with) the Lessee's development of any Phase Two Improvements, including (i) the execution of one or more subleases of those portions of the Land on which the Phase Two Improvements will be constructed between the Lessee, as the sublessor, and the owner of the Phase Two Improvements, as the sublessee; (ii) subordination of the Lessor's and the Lender's interests in such portions of the Land to the interests of the owners (other than the Lessee) or the lenders of the Phase Two Improvements; and/or (iii) the subordination of the Lessor's and the Lender's interests in such portions of the Land to any mortgage or deed of trust securing financing of the Phase Two Improvements; provided, however, that the Lessee's obligations to the Lessor with respect to the Land Lease shall remain secured by the Pledge Agreement.

ARTICLE IX MAINTENANCE AND REPAIR; RETURN

9.1. Maintenance and Repair; Return.

(a) The Lessee, at its sole cost and expense, shall maintain each Property in good condition (ordinary wear and tear excepted) and make all necessary repairs thereto, of every kind and nature whatsoever, whether interior or exterior, ordinary or extraordinary, structural or nonstructural or foreseen or unforeseen, in each case as required by all Requirements of Law and Insurance Requirements and in no event less than the standards applied by the Lessee in the operation and maintenance of other comparable properties owned or leased by the Lessee or its Affiliates.

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(b) The Lessor shall under no circumstances be required to build any improvements on any Property, make any repairs, replacements, alterations or renewals of any nature or description to any Property, make any expenditure whatsoever in connection with this Master Lease (other than for Advances made in accordance with and pursuant to the terms of the Participation Agreement and the Construction Agency Agreement) or maintain any Property in any way. The Lessee waives any right to (i) require the Lessor to maintain, repair, or rebuild all or any part of any Property or (ii) make repairs at the expense of the Lessor pursuant to any Requirement of Law, Insurance Requirement, contract, agreement, or covenant, condition or restriction in effect at any time during the Lease Term.

(c) The Lessee shall, upon the expiration or earlier termination of this Master Lease with respect to any Property (other than as a result of the Lessee's purchase of such Property from the Lessor as provided herein), vacate and surrender such Property to the Lessor in its then-current, "AS IS" condition, without any express or implied warranty subject to the Lessee's obligations under Sections 8.3, 9.1(a), 10.1, 11.1, 14.1, 14.2 and 20.1. Title to all improvements, furnishings, furniture, fixtures and any personal property of the Lessee which were not funded by the Lessor and the Lender pursuant to the Participation Agreement, located on or about a Property whether or not affixed to the realty, shall, subject to the following sentence, be and remain the property of the Lessee throughout the Lease Term, and at any time during the Lease Term may be removed by the Lessee or, at the Lessee's election surrendered with the Property, in which event title to such surrendered property shall, if the Lessor so elects, be deemed transferred to the Lessor. Notwithstanding the foregoing, any fixture constituting part of the Property which are required by Applicable Law or which cannot be removed without causing Material damage to or the diminution in value of the applicable Property shall at all times remain part of the Property.

ARTICLE X MODIFICATIONS, ETC.

10.1. Modifications, Substitutions and Replacements. During the Lease Term, the Lessee, at its sole cost and expense, may at any time and from time to time make alterations, renovations, improvements and additions to any Property or any

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part thereof and substitutions and replacements therefor (collectively, "Modifications"); provided, however, that:

(i) except for any Modification required to be made pursuant to a Requirement of Law (a "Required Modification"), no Modification shall adversely affect the value or useful life of such Property or any part thereof from that which existed immediately prior to such Modification;

(ii) such Modifications shall be (and shall be done in a manner) consistent with the Plans and Specifications for such Property;

(iii) such Modifications shall comply with Sections 8.3 and 9.1(a); and

(iv) the Lessee shall have provided notice to the Lessor of any structural Modification the cost of which exceeds 10% of the Improvements Budget for such Property.

All Modifications shall remain part of the realty and shall be subject to this Master Lease and title thereto shall immediately vest in the Lessor; provided, however, that Modifications that (x) are not Required Modifications, (y) were not financed by the Participants and (z) either (i) are readily removable without impairing the value, utility or remaining useful life of the applicable Property, or (ii) subject to the Lessor's consent rights under Section 8.5 hereof, Phase Two Improvements shall be the property of the Lessee or other third party and shall not be subject to this Master Lease. The Lessee may place upon the Properties any trade fixtures, machinery, equipment, inventory or other property belonging to the Lessee or third parties and may remove the same at any time during the Lease Term, subject, however, to the terms of Section 9.1(a); provided, however, that such trade fixtures, machinery, equipment, inventory or other property do not impair the value or useful life of the applicable remaining Property; provided, further, however, that the Lessee shall keep and maintain at the Properties and shall not remove from the Properties any Equipment financed or otherwise paid for by the Lender pursuant to the Participation Agreement.

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**ARTICLE XI
WARRANT OF TITLE; EASEMENTS**

11.1. Warrant of Title.

(a) The Lessee agrees that except as otherwise provided herein and subject to the terms of Article XII relating to permitted contests, the Lessee shall not directly or indirectly create or allow to remain, and shall promptly discharge at its sole cost and expense, any Lien (other than any Lessor Lien or any Permitted Property Lien), defect, attachment, levy, title retention agreement or claim upon any Property or any Lien, attachment, levy or claim with respect to the Rent or with respect to any amounts held by the Lessor or the Lender pursuant to the Loan Agreement or the other Operative Documents, other than Permitted Property Liens and Liens on machinery, equipment, general intangibles and other personal property not financed by the proceeds of the Loans or the Lessor Amounts.

(b) Nothing contained in this Master Lease shall be construed as constituting the consent or request of the Lessor or any other Participant, expressed or implied, to or for the performance by any contractor, mechanic, laborer, materialman, supplier or vendor of any labor or services or for the furnishing of any materials for any construction, alteration, addition, repair or demolition of or to any Property or any part thereof. NOTICE IS HEREBY GIVEN THAT NEITHER THE LESSOR NOR THE LENDER IS OR SHALL BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED OR TO BE FURNISHED TO THE LESSEE, OR TO ANYONE HOLDING A PROPERTY OR ANY PART THEREOF THROUGH OR UNDER THE LESSEE, AND THAT NO MECHANIC'S OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF THE LESSOR OR THE LENDER IN AND TO ANY PROPERTY.

11.2. Grants and Releases of Easements; Lessor's Waivers. Provided that no Lease Event of Default shall have occurred and be continuing, from time to time upon request of the Lessee and subject to the Lessee's prompt reimbursement of the Lessor's costs and expenses, the Lessor (as holder of record title to the Property) shall execute such documents reasonably satisfactory in form (which have been prepared at Lessee's expense) to effect any of the actions set forth in clauses (a), (b), (c), (d), (e) and (f) of the following sentence, if in the Lessee's reasonable and good faith opinion such action by the Lessor is necessary or appropriate to effect such intended actions. Provided that no Lease Event of Default shall have occurred and be continuing and subject to the provisions of Articles VII, IX and X and Section

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8.3, the Lessor hereby consents in each instance to the following actions by the Lessee as the Lessor's Construction Agent, and the Lessor hereby appoints the Lessee the Lessor's attorney-in-fact, with full authority in the place and stead of the Lessor to take such action or actions from time to time during the Lease Term, but at the Lessee's sole cost and expense: (a) the granting of easements, licenses, rights-of-way and other rights and privileges in the nature of easements reasonably necessary or desirable for the use, repair, or maintenance of any Property as herein provided; (b) the release of existing easements or other rights in the nature of easements which are for the benefit of any Property; (c) if required by applicable Governmental Authority in connection with the Construction, the dedication or transfer of unimproved portions of any Property for road, highway or other public purposes; (d) the execution of amendments to any covenants and restrictions; (e) the filing and processing of Site Development Permit Amendments, Parcel Maps, Tentative Maps, Development Agreements and any and all other permit applications, authorizations, entitlements, agreements with any government or regulatory agency or amendments thereof, or other documents reasonably required or beneficial for construction or Modification of the Improvements, or amendments to Permitted Property Liens or governmental permits or approvals affecting any Property; and (f) the execution and filing of tract or parcel maps subdividing the Land into lots or parcels or reconfiguring existing lots of parcels; provided, however, that in each case (i) such grant, release, dedication, transfer or amendment does not materially impair the value or remaining useful life of the applicable Property, (ii) such grant, release, dedication, transfer or amendment that in the Lessee's judgment is reasonably necessary or beneficial in connection with the use, maintenance, alteration or improvement of the applicable Property, (iii) such grant, release, dedication, transfer or amendment will not cause the applicable Property or any portion thereof to fail to comply with the provisions of this Master Lease or any other Operative Documents and all Requirements of Law (including, without limitation, all applicable zoning, planning, building and subdivision ordinances, all applicable restrictive covenants and all applicable architectural approval requirements); (iv) any and all governmental consents or approvals required prior to such grant, release, dedication, transfer, annexation or amendment have been obtained, and any and all filings required prior to such action have been made; (v) the Lessee shall remain obligated under this Master Lease and under any instrument executed by the Lessee consenting to the assignment of the Lessor's interests in this Master Lease as security for indebtedness, in each such case in accordance with their terms, substantially as though such grant, release, dedication, transfer or amendment had not been effected and (vi) the Lessee shall pay and perform any

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obligations of the Lessor under such grant, release, dedication, transfer or amendment. The Lessor acknowledges the Lessee's right to finance and to secure under the Uniform Commercial Code, inventory, furnishings, furniture, equipment, machinery, leasehold improvements and other personal property located at the Properties other than Equipment, and the Lessor agrees to execute Lessor waiver forms and release of Lessor Liens in favor of any purchase money seller, lessor or lender which has financed or may finance in the future such items. Without limiting the effectiveness of the foregoing, provided that no Lease Event of Default shall have occurred and be continuing, the Lessor shall, upon the request of the Lessee, and at the Lessee's sole cost and expense, execute and deliver any instruments necessary or appropriate to confirm any such grant, release, dedication, transfer, annexation or amendment to any Person permitted under this Section 11.2 including landlord waivers with respect to any of the foregoing.

ARTICLE XII PERMITTED CONTESTS

12.1. Permitted Contests in Respect of Applicable Law. If, to the extent and for so long as (a) a test, challenge, appeal or proceeding for review of any Applicable Law relating to any Property shall be prosecuted diligently and in good faith in appropriate proceedings by the Lessee or (b) compliance with such Applicable Law shall have been excused or exempted by a valid nonconforming use, variance permit, waiver, extension or forbearance, the Lessee shall not be required to comply with such Applicable Law but only if and so long as any such test, challenge, appeal, proceeding, waiver, extension, forbearance or noncompliance shall not, in the reasonable opinion of the Lessor and the Lender, involve (A) any risk of criminal liability being imposed on the Lessor or the Lender or (B) any risk of (1) foreclosure, forfeiture or loss of such Property, or any material part thereof, or (2) the nonpayment of Rent or (C) any substantial risk of (1) the sale of, or the creation of any Lien (other than a Permitted Property Lien) on, any part of such Property, (2) civil liability being imposed on the Lessor, the Lender, or such Property, or (3) enjoinder of, or interference with, the use, possession or disposition of such Property in any material respect.

The Lessor will not be required to join in any proceedings pursuant to this Section 12.1 unless a provision of any Applicable Law requires that such proceedings be brought by or in the name of the Lessor; and in that event the Lessor will join in the proceedings or permit them or any part thereof to be brought

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in its name if and so long as (i) the Lessee has not elected the Remarketing Option and (ii) the Lessee pays all related expenses and indemnifies the Lessor and the Lender with respect to such proceedings.

ARTICLE XIII INSURANCE

13.1. Public Liability and Workers' Compensation Insurance.

(a) During the Lease Term, the Lessee shall procure and carry, at the Lessee's sole cost and expense, commercial general liability insurance for claims for injuries or death sustained by persons or damage to property while on the Properties and such other public liability coverages as are ordinarily procured by the Lessee or its Affiliates who own or operate similar properties, but in any case shall provide liability coverage of at least \$2,000,000 per person and \$1,000,000 for property damage per occurrence. Such insurance shall be on terms and in amounts that are no less favorable than insurance maintained by the Lessee or such Affiliates with respect to similar properties that they own and that are in accordance with normal industry practice. The policy shall be endorsed to include the Lessor and the Lender as additional insureds. The policy shall also specifically provide that the policy shall be considered primary insurance which shall apply to any loss or claim before any contribution by any insurance which the Lessor or the Lender may have in force.

(b) The Lessee shall, in the construction of the Improvements (including in connection with any Modifications thereof) and the operation of the Properties, comply with the applicable workers' compensation laws.

(c) The Lessee shall have the right to self-insure with respect to any of the insurance required under this Master Lease so long as (i) the Lessee is a publicly traded domestic corporation whose stock is traded on a nationally recognized exchange; (ii) the Lessee has not assigned this Master Lease; (iii) the Lessee maintains a Consolidated Tangible Net Worth of at least \$1,000,000,000 according to its most recent audited financial statement; and (iv) the Lessee governs and manages its self-insurance program in a manner consistent with programs managed by prudent businesses whose stock is publicly traded on nationally recognized exchanges. Upon request, the Lessee shall supply the Lessor from time to time with evidence reasonably

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satisfactory to the Lessor of the Lessee's net worth and the satisfaction of the condition set forth above. If the Lessee elects to self-insure, the Lessee shall be responsible for losses or liabilities which would have been assumed by the insurance companies which would have issued the insurance required of the Lessee under the Master Lease. The Lessee will notify the Lessor in advance of any period for which it intends to self-insure and shall provide Lessor with satisfactory evidence that it complies with these requirements in order to give the Lessor an opportunity to confirm the satisfaction of the conditions set forth above. For so long as the Lessee self-insures, the Lessee, for applicable periods, shall and does hereby indemnify and hold harmless the Lessor, its officers, directors, agents, employees and representatives from and against all costs, damages, or expenses (including reasonable attorneys' fees) incurred or paid by the Lessor as a result of any claim customarily covered by a broad-form policy of commercial general liability insurance, including a contractual liability indorsement.

13.2. [Intentionally Omitted].

13.3. [Intentionally Omitted].

ARTICLE XIV CASUALTY AND CONDEMNATION; ENVIRONMENTAL MATTERS

14.1. Casualty and Condemnation.

(a) Subject to the provisions of this Article XIV, if all or a portion of any Property is damaged or destroyed in whole or in part by a Casualty or if the use, access, occupancy, easement rights or title to any Property or any part thereof, is the subject of a Condemnation, then

(i) any insurance proceeds payable with respect to such Casualty shall be paid directly to the Lessee (or if received by the Lessor, shall be paid over to the Lessee) for the sole purpose of reconstruction, refurbishment and repair of such Property; provided, that such reconstruction, refurbishment or repair can be completed prior to the end of the Lease Term; provided, further, that in the event that either (i) such reconstruction, refurbishment or repair cannot be completed prior to the end of the Lease Term or (ii) the Lessee shall elect not to use such proceeds for the reconstruction, refurbishment or repair of such

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Property, then all such insurance proceeds payable with respect to such Casualty shall be paid to the Lessor to be applied towards the payment of the Lease Balance in accordance with Section 7.2 of the Participation Agreement, and

(ii) (x) in the case of a Condemnation (that is not a Significant Condemnation) of any part of any Land (not including the applicable Improvements), any award or compensation relating thereto shall be paid to the Lessee for the sole purpose of restoration of such Property (provided, that such restoration can be completed prior to the end of the Lease Term) or else shall be paid to the Lessor to be applied in the Lessor's and the Lender's reasonable discretion to the partial restoration of such Property or towards the payment of the applicable Lease Balance, and (y) in the case of a Significant Condemnation, such award or compensation shall be paid to the Lessor to be applied in the Lessor's and the Lender's reasonable discretion to the restoration of such Property or toward the payment of the applicable Lease Balance in accordance with Article VII of the Participation Agreement.

provided, however, that, in each case, if a Lease Event of Default shall have occurred and be continuing, such award, compensation or insurance proceeds shall be paid directly to the Lessor or, if received by the Lessee, shall be held in trust for the Lessor and the Lender, and shall be paid by the Lessee to the Account to be distributed in accordance with Article VII of the Participation Agreement. All amounts held by the Lessor or the Lender when a Lease Event of Default exists hereunder on account of any award, compensation or insurance proceeds either paid directly to the Lessor or the Lender or turned over to the Lessor or the Lender shall at the option of the Lessor either be (i) paid to the Lessee for the repair of damage caused by such Casualty or Condemnation in accordance with clause (d) of this Section 14.1, or (ii) applied to the repayment of the Property Balance of the related Property on the Termination Date with respect to such Property in accordance with Article XV, with any Excess Casualty/Condemnation Proceeds being payable to the Lessee.

(b) The Lessee may appear in any proceeding or action to negotiate, prosecute, adjust or appeal any claim for any award, compensation or insurance payment on account of any such Casualty or Condemnation and shall pay all expenses thereof. At the Lessee's reasonable request, and at the

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Lessee's sole cost and expense, the Lessor and the Lender shall participate in any such proceeding, action, negotiation, prosecution or adjustment. The Lessor and the Lessee agree that this Master Lease shall control the rights of the Lessor and the Lessee in and to any such award, compensation or insurance payment.

(c) If the Lessor or the Lessee shall receive notice of a Casualty or of an actual, pending or threatened Condemnation of any Property or any interest therein, the Lessor or the Lessee, as the case may be, shall give notice thereof to the other and to the Lender promptly after the receipt of such notice.

(d) If pursuant to this Section 14.1 and Section 15.1 this Master Lease shall continue in full force and effect following a Casualty or Condemnation with respect to any Property, the Lessee shall, at its sole cost and expense (and, without limitation, if any award, compensation or insurance payment is not sufficient to restore such Property in accordance with this clause (d), the Lessee shall pay the shortfall), promptly and diligently repair any damage to such Property caused by such Casualty or Condemnation in conformity with the requirements of Sections 8.3 and 9.1, to restore such Property to at least the same condition, operative value and useful life as existed immediately prior to such Casualty or Condemnation. In such event, title to such Property shall remain with the Lessor subject to the terms of this Master Lease. Upon completion of such restoration, the Lessee shall furnish to the Lessor (which, in turn, shall furnish to the Lender) an architect's certificate of substantial completion and a Responsible Officer's Certificate confirming that such restoration has been completed pursuant to this Master Lease.

(e) In no event shall a Casualty or Condemnation affect the Lessee's obligations to pay Rent pursuant to Section 3.1 or to perform its obligations and pay any amounts due on the Expiration Date or pursuant to Articles XVIII and XXI.

(f) Any Excess Casualty/Condemnation Proceeds received by the Lessor or the Lender in respect of a Casualty or Condemnation shall be turned over to the Lessee.

14.2. Environmental Matters. Promptly upon the Lessee's knowledge of the existence of an Environmental Violation with respect to any Property, the Lessee shall notify the Lessor in writing of such Environmental Violation. If the Lessor elects

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not to terminate this Master Lease with respect to such Property pursuant to Section 15.1, at the Lessee's sole cost and expense, the Lessee shall promptly and diligently commence any response, clean up, remedial or other action necessary to remove, clean up or remediate the Environmental Violation in accordance with the terms of Section 8.3 (including the last sentence thereof). The Lessee shall, upon completion of remedial action by the Lessee, cause to be prepared by an environmental consultant reasonably acceptable to the Lessor a report describing the Environmental Violation and the actions taken by the Lessee (or its agents) in response to such Environmental Violation, and a statement by the consultant that the Environmental Violation has been remedied in compliance in all material respects with applicable Hazardous Materials Laws. Each such Environmental Violation shall be remedied prior to the Expiration Date unless each Property with respect to which an Environmental Violation has occurred but has not been remedied has been purchased by the Lessee in accordance with Section 18.1. Nothing in this Article XIV shall reduce or limit the Lessee's obligations under Sections 13.1, 13.2 or 13.3 of the Participation Agreement.

14.3. Notice of Environmental Matters. Promptly, but in any event within sixty (60) Business Days from the date the Lessee has actual knowledge thereof, the Lessee shall provide to the Lessor written notice of any pending or threatened claim, action or proceeding involving any Hazardous Materials Laws or any Release on or in connection with any Property. All such notices shall describe in reasonable detail the nature of the claim, action or proceeding and the Lessee's proposed response thereto. In addition, the Lessee shall provide to the Lessor, within sixty (60) Business Days of receipt, copies of all written communications with any Governmental Authority relating to any Environmental Violation in connection with any Property. The Lessee shall also promptly provide such detailed reports of any such material environmental claims as may reasonably be requested by the Lessor or the Lender. In the event that the Lessor receives written notice of any pending or threatened claim, action or proceeding involving any Hazardous Materials Laws or any Release on or in connection with any Property, the Lessor shall promptly give notice thereof to the Lessee. For purposes of this paragraph, "actual knowledge" of the Lessee shall mean the actual knowledge of the Lessee's Director of Planning and Development, who is responsible for the day to day operations of the Properties.

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**ARTICLE XV
TERMINATION OF LEASE**

15.1. Partial Termination upon Certain Events. If any of the following occurs with respect to any Property:

- (i) a Significant Condemnation occurs; or
- (ii) an Environmental Violation occurs or is discovered the cost of remediation of which would exceed \$5,000,000;

and the Lessor shall have given written notice (a "Termination Notice") to the Lessee that, as a consequence of such event (x) the Lease Supplement(s) relating to such Property are to be terminated or, with respect to the Lease Supplement (Land), modified and (y) this Master Lease is to be terminated with respect to such Property, then the Lessee shall be obligated to purchase the Lessor's interest in such affected Property within 30 days after Lessee's receipt of the Termination Notice, by paying to the Lessor an amount equal to the Property Balance for such affected Property.

15.2. Termination Procedures. On the date of the payment by the Lessee of the Property Balance for the affected Property or Properties in accordance with Section 15.1 (such date, the "Termination Date"), the Lease Supplement relating to each such affected Property shall terminate and this Master Lease shall terminate with respect to each such Property and, concurrent with the Lessor's receipt of such payment,

(a) the Lessor shall execute and deliver to the Lessee (or to the Lessee's designee) at the Lessee's cost and expense a quitclaim deed with respect to each such Property with a covenant against grantor acts and an assignment of the Lessor's entire interest in each such Property (which shall include an assignment of all of the Lessor's right, title and interest in and to any Net Proceeds with respect to each such Property not previously received by the Lessor), in each case in recordable form and otherwise in conformity with local custom and free and clear of the Lien of the Lessor Mortgage and any Lessor Liens, attributable to the Lessor;

(b) each such Property shall be conveyed to the Lessee (or to the Lessee's designee) "AS IS" and in its then present physical condition; and

(c) in the case of a termination pursuant to clause (i) of Section 15.1, the Lessor shall convey to the Lessee

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any Net Proceeds with respect to the Condemnation giving rise to the termination of this Master Lease with respect to such Property theretofore received by the Lessor or at the request of the Lessee, such amounts shall be applied against sums due hereunder.

ARTICLE XVI EVENTS OF DEFAULT

16.1. Lease Events of Default. The occurrence of any one or more of the following events (whether such event shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body) shall constitute a "Lease Event of Default":

(a) the Lessee shall fail to make payment of (i) any Basic Rent due and payable ten (10) days after the date of Lessee's receipt of written notice thereof, (ii) any Supplemental Rent due and payable within ten (10) days after receipt of written notice thereof, or (iii) any Property Balance, Loan Balance or Lease Balance, on the date due therefor; or

(b) the Lessee shall fail to deposit with the Lender, within ten (10) days of receipt of written notice, the Deficiency Collateral;

(c) the Lessee shall not be in compliance with Section 10.8 of the Participation Agreement;

(d) [Intentionally Omitted];

(e) the Lessee shall fail to observe or perform any term, covenant or condition of the Lessee under this Master Lease or the other Operative Documents to which it is party other than those described in the foregoing clauses (a), (b), (c) or (d) of this Section 16.1, and, in each such case, such failure shall have continued unremedied for thirty (30) days after written notice; provided, that such cure period shall be extended from thirty (30) days to one-hundred and eighty (180) days if such term, covenant or condition is, without prejudice to the Lessor and/or the Lender, curable or remediable and the Lessee is at all times during such extended period diligently taking action reasonably satisfactory to the Lessor and the Lender to so cure or remedy default; provided, further, that failure by

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the Lessee to fully comply with the requirements of Section 20.1 hereof shall not be subject to any cure period; provided, further, that, for purposes of clarification, the failure by the Lessee to comply with the foregoing clauses (a), (b), (c) and (d) of this Section 16.1 shall not be subject to any cure period except as expressly set forth in such clauses (a), (b), (c) and (d);

(f) any representation or warranty made or deemed made by the Lessee herein or in any Operative Document or which is contained in any certificate, document or financial or other statement furnished at any time under or in connection with any Operative Document shall prove to have been incorrect, false or misleading in any material respect on or as of the date made or deemed made, unless the fact or condition which made such representation of warranty incorrect, false or misleading is, without prejudice to the Lessor and/or the Lender, curable or remediable and the Lessee is at all times diligently taking action reasonably satisfactory to the Lessor and the Lender to so cure or remedy such fact or condition in order to make such representation and/or warranty true and correct in all material respects, in which event the Lessee shall have one-hundred and eighty (180) days from the date such representation or warranty was made or deemed made to cure or remedy such default;

(g) a Construction Agency Agreement Event of Default by virtue of a breach by the Construction Agent of its obligation to complete the construction of the Improvements;

(h) (i) The Lessee shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or the Lessee shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the Lessee any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or

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(iii) there shall be commenced against the Lessee any case, proceeding other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (iv) the Lessee shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) the Lessee shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due; or

(i) any Operative Document or any Lien granted under any Operative Document shall, taken as a whole, terminate, cease to be effective against, or cease to be the legal, valid, binding and enforceable obligation of the Lessee;

(j) the Lessee shall directly or indirectly contest the effectiveness, validity, binding nature of enforceability of any Operative Document or any Lien granted under any Operative Document;

(k) any member of the ERISA Group shall fail to pay when due an amount or amounts aggregating in excess of \$5,000,000 which it shall have become liable to pay under Title IV of ERISA; or notice of intent to terminate a Material plan shall be filed under Title IV of ERISA by any member of the ERISA Group, any plan administrator or any combination of the foregoing; or the PBGC shall institute proceedings under Title IV of ERISA to terminate, to impose liability (other than for premiums under Section 4007 of ERISA) in respect of, or to cause a trustee to be appointed to administer any Material Plan; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any Material Plan must be terminated; or there shall occur a complete or partial withdrawal from, or a default, within the meaning of Section 4219(c)(5) of ERISA, with respect to, one or more Multiemployer plans which could cause one or more members of the ERISA Group to incur a current payment obligation in excess of \$5,000,000;

(l) any judgements or orders for the payment of money, in any case not covered by insurance, individually or in the aggregate in excess of \$50,000,000 shall be rendered against the Lessee, and such judgment or order shall continue

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unsatisfied and unstayed (pursuant to laws, rules or court orders) for a period of thirty (30) days;

(m) a default shall occur in the payment when due (subject to any applicable grace period), whether by acceleration or otherwise, of any Indebtedness of the Lessee or any of its Consolidated Subsidiaries having a principal amount, individually or in the aggregate, in excess of \$50,000,000, or a default shall occur in the performance or observance of any obligation or condition with respect to such Indebtedness if the effect of such default is to accelerate the maturity of any such Indebtedness or such default shall continue unremedied for any applicable period of time sufficient to permit the holder or holders of such Indebtedness, or any trustee or agent for such holders, to cause such Indebtedness to become due and payable prior to its expressed maturity; and

(n) any person or group of persons (within the meaning of Section 13 or 14 of the Securities Exchange Act of 1934, as amended) shall have acquired beneficial ownership (within the meaning of Rule 13d-3 promulgated by the Securities and Exchange Commission under said Act) of 35% or more of the outstanding shares of common stock of the Lessee.

16.2. Remedies. Upon the occurrence of any Lease Event of Default and the declaration thereof, the Lease Balance due hereunder without further act shall be accelerated and be deemed to be due and payable hereunder, and at any time thereafter, the Lessor may, subject to the last three paragraphs of this

Section 16.2 and so long as such Lease Event of Default is continuing, do one or more of the following as the Lessor in its sole discretion shall determine, without limiting any other right or remedy the Lessor may have on account of such Lease Event of Default.

(a) The Lessor may, by notice to the Lessee, rescind or terminate this Master Lease as to any Property or all of the Properties as of the date specified in such notice; provided, however (i) no reletting, reentry or taking of possession of any Property (or any portion thereof) by the Lessor will be construed as an election on the Lessor's part to terminate this Master Lease unless a written notice of such intention is given to the Lessee, (ii) notwithstanding any reletting, reentry or taking of possession, the Lessor may at any time thereafter elect to terminate this Master Lease for a continuing Lease Event of Default and

(iii) no act or thing done by the Lessor or any of its agents, representatives or employees and no agreement accepting a

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surrender of the Properties shall be valid unless the same be made in writing and executed by the Lessor;

(b) The Lessor may (i) demand that the Lessee, and the Lessee shall upon the written demand of the Lessor, return any Property promptly to the Lessor in the manner and condition required by, and otherwise in accordance with all of the provisions of, Articles VII and IX and Section 8.3 hereof as if such Property were being returned at the end of the Lease Term, and the Lessor shall not be liable for the reimbursement of the Lessee for any costs and expenses incurred by the Lessee in connection therewith and (ii) without prejudice to any other remedy which the Lessor may have for possession of any Property, and to the extent and in the manner permitted by Applicable Law, enter upon such Property and take immediate possession of (to the exclusion of the Lessee) such Property or any part thereof and expel or remove the Lessee and any other Person who may be occupying such Property, by summary proceedings or otherwise, all without liability to the Lessee for or by reason of such entry or taking of possession, whether for the restoration of damage to property caused by such taking or otherwise and, in addition to the Lessor's other damages, the Lessee shall be responsible for all costs and expenses incurred by the Lessor and/or the Lender in connection with any reletting, including, without limitation, reasonable brokers' fees and all costs of any alterations or repairs made by the Lessor or the Lender;

(c) As more fully set forth in each Lease Supplement, the Lessor may sell all or any part of any one or more Properties at public or private sale, as the Lessor may determine;

(d) The Lessor may, at its option, elect not to terminate this Master Lease with respect to any Property or all of the Properties and continue to collect all Basic Rent, Supplemental Rent, and all other amounts due to the Lessor (together with all costs of collection) and enforce the Lessee's obligations under this Master Lease as and when the same become due, or are to be performed, and at the option of the Lessor, upon any abandonment of any Property by the Lessee or re-entry of same by the Lessor, the Lessor may enforce, by suit or otherwise, all other covenants and conditions hereof to be performed or complied with by the Lessee hereunder and to exercise all other remedies permitted by Section 1951.4 of the California Civil Code or any amendments thereof or any successor laws which replace such Section 1951.4;

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(e) [Intentionally Omitted]

(f) The Lessor may exercise any other right or remedy that may be available to it under Applicable Law, including any and all rights or remedies under the Pledge Agreement, or proceed by appropriate court action (legal or equitable) to enforce the terms hereof or to recover damages for the breach hereof. Separate suits may be brought to collect any such damages for any period(s), and such suits shall not in any manner prejudice the Lessor's right to collect any such damages for any subsequent period(s), or the Lessor may defer any such suit until after the expiration of the Lease Term, in which event such suit shall be deemed not to have accrued until the expiration of the Lease Term;

(g) The Lessor may retain and apply against the Lease Balance all sums which the Lessor would, absent such Lease Event of Default, be required to pay to, or turn over to, the Lessee pursuant to the terms of this Master Lease; or

(h) If a Lease Event of Default shall have occurred and be continuing, the Lessor, to the extent permitted by Applicable Law, as a matter of right and with notice to the Lessee, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of any Property, and the Lessee hereby irrevocably consents to any such appointment. Any such receiver(s) shall have all of the usual powers and duties of receivers in like or similar cases and all of the powers and duties of the Lessor in case of entry, and shall continue as such and exercise such powers until the date of confirmation of the sale of such Property unless such receivership is sooner terminated.

(i) To the maximum extent permitted by law, the Lessee hereby waives the benefit of any appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale of any Property or any interest therein.

(j) The Lessor shall be entitled to enforce payment of the indebtedness and performance of the obligations secured hereby and to exercise all rights and powers under this instrument or under any of the other Operative Documents or other agreement or any laws now or hereafter in force, notwithstanding some or all of the obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, security agreement, pledge, lien, assignment or otherwise. Neither the acceptance of this instrument nor its enforcement, shall prejudice or in any manner affect the

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Lessor's right to realize upon or enforce any other security now or hereafter held by the Lessor, it being agreed that the Lessor shall be entitled to enforce this instrument and any other security now or hereafter held by the Lessor in such order and manner as the Lessor may determine in its absolute discretion. No remedy herein conferred upon or reserved to the Lessor is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Operative Documents to the Lessor or to which it may otherwise be entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by the Lessor. In no event shall the Lessor, in the exercise of the remedies provided in this instrument (including, without limitation, in connection with the assignment of rents to Lessor, or the appointment of a receiver and the entry of such receiver onto all or any part of the Properties), be deemed a "mortgagee in possession", and the Lessor shall not in any way be made liable for any act, either of commission or omission, in connection with the exercise of such remedies, except for the exercise of the remedies set forth in clauses (c), (j) or (k) of this Section 16.2 within thirty (30) days after the declaration of the occurrence of an Event of Default in contravention of Lessee's purchase right set forth in the last paragraph of this Section 16.2.

(k) Foreclosure; Power of Sale. The Lessee hereby grants to First American Title Insurance Company, as trustee (together with all successor trustees, the "Trustee"), IN TRUST, WITH POWER OF SALE, all of the Lessee's right, title and interest in and to the Properties and, upon the occurrence of a Lease Event of Default and following termination of this Master Lease by the Lessor, the Lessor shall have the power and authority, after proper notice and lapse of such time as may be required by law and by the Master Lease, to cause the Trustee to sell any Property or the Properties by notifying the Trustee of that election and depositing with the Trustee this instrument and receipts and evidence of expenditures made and secured hereby as the Trustee may reasonably require. Upon receipt of any such notice from the Lessor, the Trustee shall cause to be recorded, published and delivered to Lessee such Notice of Default and Election to Sell as is then required by applicable statutory authority and by this instrument, which notice shall set forth, among other things, the nature of the breach(es) or default(s), the action (s) required to

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effect a cure thereof and the time period within which that cure may be effected. If no cure is effected within the statutory time limits following recordation of the Notice of Default and Election to Sell and after Notice of Sale has been given as required by the above-referenced statutes, the Trustee may without further notice or demand sell and convey any Property or the Properties in accordance with the above-referenced statutes. Each Property may be sold as a whole or in separate lots, parcels or items and in such order as the Lessor may direct, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. The Trustee shall deliver to such purchaser(s) a good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty express or implied. The recitals in such deed of any matter or fact shall be conclusive proof of the truthfulness thereof. Any Person, including the Lessee, the Trustee or the Lessor, may purchase at any sale. After deducting all costs, fees and expenses of the Lessor and the Trustee, including costs of evidence of title in connection with any sale, the Lessor shall apply the proceeds of sale, in the following order of priority, to payment of the following (collectively referred to herein as the "Obligated Amounts"): (i) first, all amounts expended by or for the account of the Lessor under the terms hereof and not then repaid, with accrued interest at the Overdue Rate; and (ii) second, all other amounts then due and owing hereunder including, without limitation, all Basic Rent, Supplemental Rent, the full amount of the Lease Balance as of the date of sale as if this Lease had been terminated with respect to all of the Properties then subject to this Lease under Section 18.1, and all other amounts then payable by the Lessee under this Lease and the other Operative Documents, with the Lessor having the right to apply the proceeds of sale to the amounts described above in this clause (ii) in such order, proportion and priority as the Lessor may elect in its sole and absolute discretion. To the extent permitted by applicable statutes, the Trustee may postpone the sale of all or any portion of any Property or the Properties by public announcement at the time and place of sale, and from time to time thereafter may again postpone that sale by public announcement or subsequently noticed sale, and without further notice may make such sale at the time fixed at the last postponement or may, in its discretion, give a new notice of sale. A sale of less than all of any Property or the Properties or any defective or irregular sale made hereunder shall not exhaust the power of sale provided for herein, and subsequent sales may be made hereunder until all of the Obligated Amounts have been

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satisfied or all the Properties have been sold, without defect or irregularity. No action of the Lessor or the Trustee based upon the provisions contained herein or contained in the applicable statutes, including, without limitation, the giving of the Notice of Default and Election to Sell or the Notice of Sale, shall constitute an election of remedies which would preclude the Lessor from pursuing judicial foreclosure before a completed sale pursuant to the power of sale contained herein. The Lessor shall have the right, with the irrevocable consent of the Lessee hereby given and evidenced by the execution of this instrument, to obtain appointment of a receiver by any court of competent jurisdiction without further notice to the Lessee, which receiver shall be authorized and empowered to enter upon and take possession of any Property or the Properties, including all personal property used upon or in connection with the real property herein conveyed, to let any Property or the Properties, to receive all the rents, issues and profits, if any, which may be due or become due in respect to the leasing of any Property or the Properties to another party (herein, "Property Rents"), and apply the Property Rents after payment of all necessary charges and expenses to reduction of the Obligated Amounts in such order, proportion and priority as the Lessor may elect. At the option of the Lessor, the receiver shall accomplish entry and taking possession of any Property or the Properties by actual entry and possession or by notice to the Lessee. The receiver so appointed by a court of competent jurisdiction shall be empowered to issue receiver's certificates for funds advanced by the Lessor for the purpose of protecting the value of any Property or the Properties as security for the Obligated Amounts. The amounts evidenced by receiver's certificates shall bear interest at the Overdue Rate and may be added to the Obligated Amounts if the Lessee or a junior lienholder purchases any Property or the Properties at the trustee's sale. The Trustee or any successor acting hereunder may resign and thereupon be discharged of the trusts hereunder upon thirty (30) days' prior written notice to the Lessor. Regardless of whether the Trustee resigns, the Lessor may, from time to time, substitute a successor or successors to any Trustee named herein or acting hereunder in accordance with any statutory procedure for such substitution; or if Lessor, in its sole and absolute discretion, so elects, and if permitted by law, the Lessor may substitute such successors or successors by recording, in the office of the recorder of the county or counties where such Property is located, a document executed by the Lessor and containing the name of the original Lessee and Lessor hereunder, the book and page where this instrument

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(or a memorandum hereof) is recorded (and/or instrument number, as applicable) and the name of the new Trustee, which instrument shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the predecessor Trustee, succeed to the rights, powers and duties hereunder. It is acknowledged that A POWER OF SALE HAS BEEN GRANTED IN THIS INSTRUMENT; A POWER OF SALE MAY ALLOW LESSOR TO TAKE THE PROPERTIES AND SELL THEM WITHOUT GOING TO COURT IN A FORECLOSURE ACTION UPON DEFAULT BY THE LESSEE UNDER THIS INSTRUMENT.

The Lessor acknowledges and agrees that upon the declaration of an Event of Default the amount due and owing by it to the Lessor hereunder shall be the Lease Balance and that to the maximum extent permitted by law, the Lessee waives any right to contest the Lease Balance as the liquidated sum due upon acceleration of this instrument.

In order to satisfy the Lease Balance due and owing the Lessee may avail itself of any and all of the foregoing remedies provided, however, that the Lessor acknowledges and agrees that in the case of a Lease Event of Default set forth in clause (a), (b), (c), (e) (unless such Event of Default is caused by a breach of Section 6.1, Section 8.4, failure to complete a structural Modification the cost of which exceeds 10% of the Property Balance for such Property, Section 11.2 hereof if the effect of such has the result described in clause (i) of the proviso therein and Section 14.2 hereof), (f), (i), (j), (k),

(l), (m) or (n) of Section 16.1 hereof, in the absence of a Lease Event of Default under any other clause, that the Lessor's personal recourse against the Lessee shall be limited to the sum of all past due and accrued and unpaid Rent hereunder and the Tranche A Loan Balance plus Lessor Balance in respect of the Land. Any Lease Balance remaining after realization from the Lessee of the foregoing amount shall be satisfied solely from proceeds derived from the sale or use of the Property.

If, pursuant to the exercise by the Lessor of its remedies pursuant to this Section 16.2, the Lease Balance and all other amounts due and owing from the Lessee under this Master Lease and the other Operative Documents have been paid in full, then the Lessor shall remit to the Lessee any excess amounts received by the Lessor. The obligation to deliver such excess to the Lessee shall survive this Master Lease.

The Lessor agrees that for thirty (30) days after the declaration of the occurrence of an Event of Default, Lessor shall forebear from exercising the remedies set forth in clauses

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(c), (j) or (k) of this Section 16.2 during which time Lessee may tender to the Lessor in immediately available funds the Lease Balance and all past due and accrued and unpaid Rent upon the receipt of which Lessor shall transfer the Properties to the Lessee or its designee in accordance with Article XXI hereof.

16.3. Waiver of Certain Rights. Subject to the foregoing, if this Master Lease shall be terminated pursuant to Section 16.2, the Lessee waives, to the fullest extent permitted by law, (a) any notice of re-entry or the institution of legal proceedings to obtain re-entry or possession; (b) any right of redemption, re-entry or repossession; (c) the benefit of any laws now or hereafter in force exempting property from liability for rent or for debt or limiting the Lessor with respect to the election of remedies; and (d) any other rights which might otherwise limit or modify any of the Lessor's rights or remedies under this Article XVI.

ARTICLE XVII LESSOR'S RIGHT TO CURE

17.1. The Lessor's Right to Cure the Lessee's Lease Defaults. The Lessor, without waiving or releasing any obligation or Lease Event of Default, may (but shall be under no obligation to) remedy any Lease Event of Default for the account and at the sole cost and expense of the Lessee, including the failure by the Lessee to maintain the insurance required by Article XIII, and may, to the fullest extent permitted by law, and notwithstanding any right of quiet enjoyment in favor of the Lessee, enter upon any Property for such purpose and take all such action thereon as may be necessary or appropriate therefor. No such entry shall be deemed an eviction of the Lessee. All reasonable out-of-pocket costs and expenses so incurred (including fees and expenses of counsel), together with interest thereon at the Overdue Rate from the date on which such sums or expenses are paid by the Lessor, shall be paid by the Lessee to the Lessor as Supplemental Rent.

ARTICLE XVIII PURCHASE PROVISIONS

18.1. Purchase of the Properties. Subject to the conditions contained herein, the Lessee shall have the irrevocable option on any Business Day to purchase any or all (subject, however, to the penultimate sentence of this Section 18.1) of the Properties subject to this Master Lease at a price (the "Purchase Price") equal to the aggregate Property Balances

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of the applicable Properties on the date of such purchase, plus Break Costs (if any). The Lessee's exercise of its option pursuant to this Section 18.1 shall be subject to the following conditions:

- (i) the Lessee shall have delivered a Purchase Notice to the Lessor not less than thirty (30) days prior to such purchase, specifying the date of such purchase;
- (ii) [Intentionally Omitted].
- (iii) the Lessee shall not have given notice of its intention to exercise the Remarketing Option.

If the Lessee exercises its option pursuant to this Section 18.1 then, upon the Lessor's receipt of all amounts due in connection therewith, the Lessor shall transfer to the Lessee or its designee all of the Lessor's right, title and interest in and to the applicable Properties in accordance with the procedures set forth in Section 21.1(a), such transfer to be effective as of the date specified in the Purchase Notice. The Lessee may designate, in a notice given to the Lessor not less than ten (10) Business Days prior to the closing of such purchase (time being of the essence), the transferee or transferees to whom the conveyance shall be made (if other than to the Lessee), in which case such conveyance shall (subject to the terms and conditions set forth herein) be made to such designee; provided, however, that such designation of a transferee or transferees shall not cause the Lessee to be released, fully or partially, from any of its obligations under this Master Lease, including, without limitation, the obligation to pay to the Lessor the Property Balances of the applicable Properties on the date specified in the applicable Purchase Notice. Notwithstanding anything herein to the contrary, the Lessee may only exercise its Purchase Option for less than all of the Properties so long as after giving effect to such purchase, the aggregate of the Property Balance (Improvements) of the Properties remaining subject to this Master Lease would be equal to 50.0% or more of an amount equal to the highest Lease Balance (Improvements) in respect of all Properties outstanding at any time prior to the time of such purchase. The Lessee shall have the right to elect by written notice to the Lessor and the Lender to have all or part of the Purchase Price paid by liquidation of the Additional Collateral so long as, in the case of a purchase of less than all the Properties, sufficient Additional Collateral remains subject to the Pledge Agreement.

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**ARTICLE XIX
EXTENSION OF EXPIRATION DATE**

19.1. Extension of Expiration Date. The Lessee may extend the Expiration Date subject to, and in accordance with, the terms and conditions of Section 11.2 of the Participation Agreement.

**ARTICLE XX
REMARKETING OPTION**

20.1. Option to Remarket. Subject to the fulfillment of each of the conditions set forth in this Section 20.1, the Lessee shall have the option (the "Remarketing Option") to market all of the Properties on behalf of the Lessor.

The Lessee's effective exercise and consummation of the Remarketing Option shall be subject to the due and timely fulfillment of each of the following provisions as to each of the Properties as of the dates set forth below:

(a) Not later than six months prior to the Expiration Date, the Lessee shall give to the Lessor written notice of the Lessee's exercise of the Remarketing Option, which exercise shall be irrevocable. Failure by the Lessee to give timely notice shall be deemed to be an election by the Lessee, without further act thereby, of its Purchase Option for all of the Properties.

(b) Not later than ninety (90) days prior to the Expiration Date, the Lessee shall deliver to the Lessor an Environmental Audit for each of the Properties. Such Environmental Audit shall be prepared by an environmental consultant selected by the Lessor in the Lessor's reasonable discretion and shall contain conclusions reasonably satisfactory to the Lessor as to the environmental status of the Properties. If any such Environmental Audit indicates any exceptions, the Lessee shall have also delivered prior to the Expiration Date a Phase Two environmental assessment by such environmental consultant and a written statement by such environmental consultant indicating that all such exceptions have been remedied in compliance with Applicable Law. As of the Expiration Date, any Permitted Property Liens (other than (x) Liens of the type described in clause (iii) of the definition of "Permitted Property Liens" to the extent, but only to the extent, the Lessor is in its opinion fully indemnified therefrom, and (y) Liens of the type described in clause (vii) of the definition of "Permitted

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Property Liens") on any Property that were contested by the Lessee shall have been removed.

(c) [Intentionally Omitted].

(d) [Intentionally Omitted].

(e) [Intentionally Omitted].

(f) During the Marketing Period, the Lessee shall, as nonexclusive agent for the Lessor, use reasonable commercial efforts to sell the Lessor's interest in the Properties and will attempt to obtain the highest purchase price therefor and for not less than the Fair Market Sales Value.

(g) [Intentionally Omitted].

(h) [Intentionally Omitted].

(i) The Lessee shall have obtained, at its cost and expense, all required governmental and regulatory consents and approvals and shall have made all filings as required by Applicable Law in order to carry out and complete the transfer of each of the Properties. As to the Lessor, any such sale shall be made on an "as is, with all faults" basis without representation or warranty by the Lessor other than the absence of Lessor Liens.

(j) The Lessee shall pay directly, and not from the sale proceeds, all prorations and credits, whether incurred by the Lessor or the Lessee, including without limitation, the cost of all environmental reports, appraisals required under Section 13.2 of the Participation Agreement and the Lessee's attorneys' fees.

(k) The Lessee shall pay to the Lessor on or prior to the Expiration Date (or in the case of Supplemental Rent, to the Person entitled thereto) an amount equal to the Tranche A Loan Balance plus the aggregate amount of Lessor Amounts that are allocable to Land Acquisition Costs (without duplication of the Tranche A Loan Balance) plus all accrued and unpaid Rent and all other amounts hereunder which have accrued or will accrue prior to or as of the Expiration Date, in the type of funds specified in Section 3.1(b) hereof; provided that in no event shall the Lessee be obligated to pay the Tranche B Loan Balance or the Lessor Amount attributable to construction of the Improvements.

(l) [Intentionally Omitted].

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(m) The gross proceeds (the "Gross Remarketing Proceeds") of the sale of the Properties (less any marketing, closing or other costs, proration or commissions related to the marketing of the Properties), shall be paid directly to the Lessor; provided, however, that if the sum of (x) the Gross Remarketing Proceeds from such sale plus (y) the Tranche A Loan Balance and Lessor Amounts allocable to Land Acquisition Costs received by the Lessor pursuant to Section 20.1(k) exceeds the Lease Balance as of such date, then the excess shall be paid to the Lessee promptly after receipt thereof by the Lessor. The obligations of the Lessor under this paragraph shall survive the expiration or termination of this Master Lease.

If the Lessee effectively elects the Remarketing Option and the sale of any Property is not consummated prior to the end of the Marketing Period, the Lessee shall, in addition to making the payment required pursuant to Section 20.1(k) above, at its own cost and expense, do each of the following:

(i) execute and deliver to the Lessor and the Lessor's title insurance company an affidavit as to the absence of any Liens (other than Permitted Property Liens of the type described in clause (i),

(vii), (viii), (ix) or (x) Liens for taxes not yet due and Lessor Liens), and shall execute and deliver to the Lessor a statement of termination of this Master Lease to the extent relating to such Property;

(ii) on the Expiration Date, transfer possession of such Property to the Lessor or any Person designated by the Lessor, by surrendering the same into the possession of the Lessor or such Person, as the case may be, in the condition required by this Section 20.1 and in compliance with Applicable Law; and

(iii) for a period of up to one year after the Expiration Date, cooperate reasonably with the Lessor and/or any Person designated by the Lessor to receive such Property, which cooperation shall include reasonable efforts with respect to the following, all of which the Lessee shall do on or before the Expiration Date for such Property or as soon thereafter as is reasonably practicable: providing copies of all books and records regarding the maintenance and ownership of such Property and all know-how, data and technical information relating thereto, providing a current copy of the applicable Plans and Specifications, granting or assigning all assignable licenses necessary for the operation and maintenance of such Property and cooperating reasonably in seeking and obtaining all necessary

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Governmental Action. The obligations of the Lessee under this paragraph shall survive the expiration or termination of this Master Lease.

Lessor shall have no obligation to approve any bid for the Properties except for bona fide all-cash bids which, together with amounts payable by the Lessee under clause (k) hereof, in the aggregate is at least equal to the Lease Balance and the acceptance of which will not subject the Lessor to any additional liability. Except as expressly set forth herein, the Lessee shall have no right, power or authority to bind the Lessor or any Participant in connection with any proposed sale of any Property.

If one or more of the foregoing provisions (a) through (k) shall not be fulfilled as of the Expiration Date with respect to any Property, then the Lessor shall declare by written notice to the Lessee the Remarketing Option to be null and void (whether or not it has been theretofore exercised by the Lessee) as to all of the Properties, in which event all of the Lessee's rights under this Section 20.1 shall immediately terminate and the Lessee shall purchase from the Lessor, and the Lessor shall convey to the Lessee, on the Expiration Date all of the Lessor's interest in all of the Properties for an amount equal to the Lease Balance..

20.2. Certain Obligations Continue. During the Marketing Period, the obligation of the Lessee to pay Rent with respect to each Property (including the installment of Rent due on the Expiration Date) shall continue undiminished until payment in full of the Tranche A Loan Balance plus the aggregate amount of the Lessor Balance allocable to Land Acquisition Costs and all accrued and unpaid Supplemental Rent due to the Lessor with respect to the Properties under the Operative Documents to which the Lessee is a party. The Lessor shall have the right, but shall be under no duty, to solicit bids, to inquire into the efforts of the Lessee to obtain bids or otherwise to take action in connection with any such sale.

ARTICLE XXI PROCEDURES RELATING TO PURCHASE OR REMARKETING

21.1. Provisions Relating to the Exercise of Purchase Option or Obligation and Conveyance Upon Remarketing and Conveyance Upon Certain Other Events.

(a) In connection with any termination of this Master Lease with respect to any Property pursuant to the terms of Article XV, in connection with any purchase or in connection

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with the Lessee's purchase of any Property in accordance with Section 18.1 or in connection with the Lessee's exercise of the purchase right under Section 16.2, then, upon the date on which this Master Lease is to terminate with respect to the applicable Property and upon the payment of all amounts due under Section 5.1 of the Construction Agency Agreement, as applicable, and upon tender by the Lessee of the amounts set forth in Article XV, Sections 16.2 or 18.1, as applicable:

(i) the Lessor shall execute and deliver to the Lessee (or to the Lessee's designee) at the Lessee's cost and expense a quitclaim deed with covenants against grantor's acts with respect to such Property or Properties and an assignment of the Lessor's entire interest in such Property or Properties (which shall include an assignment of all of the Lessor's right, title and interest in and to any Net Proceeds with respect to such Property or Properties not previously received by the Lessor and an assignment of leases of the Properties), in each case in recordable form and otherwise in conformity with local custom and free and clear of the Lien of the Lessor Mortgage and any Lessor Liens;

(ii) such Property or Properties shall be conveyed to the Lessee "AS IS" and in its then present physical condition; and

(iii) the Lessor shall execute and deliver to Lessee and the Lessee's title insurance company an affidavit as to the Lessor's title and Lessor Liens and shall execute and deliver to Lessee a statement of termination of this Master Lease to the extent this Master Lease relates to such Property or Properties.

(b) If the Lessee properly exercises the Remarketing Option, then the Lessee shall, on the Expiration Date, and at its own cost, transfer possession of all of the Properties to the independent purchaser(s) thereof, in each case by surrendering the same into the possession of the Lessor or such purchaser(s), as the case may be, free and clear of all Liens other than Lessor Liens and the lien of the Lessor Mortgage, in good condition (as modified by Modifications permitted by this Master Lease), ordinary wear and tear excepted, and in compliance with Applicable Law.

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**ARTICLE XXII
ESTOPPEL CERTIFICATES**

22.1. Estoppel Certificates. At any time and from time to time upon not less than thirty (30) Business Days' prior request by the Lessor or the Lessee (the "Requesting Party"), the other party (whichever party shall have received such request, the "Certifying Party") shall furnish to the Requesting Party a certificate signed by an individual having the office of vice president or higher in the Certifying Party certifying that this Master Lease is in full force and effect (or that this Master Lease is in full force and effect as modified and setting forth the modifications); the dates to which the Basic Rent and Supplemental Rent have been paid; to the best knowledge of the signer of such certificate, whether or not the Requesting Party is in default under any of its obligations hereunder (and, if so, the nature of such alleged default); and such other matters under this Master Lease as the Requesting Party may reasonably request. Any such certificate furnished pursuant to this Article XXII may be relied upon by the Requesting Party, and any existing or prospective mortgagee, purchaser or lender, and any accountant or auditor, of, from or to the Requesting Party (or any Affiliate thereof).

**ARTICLE XXIII
ACCEPTANCE OF SURRENDER**

23.1. Acceptance of Surrender. No surrender to the Lessor of this Master Lease or of all or any of the Properties or of any part of any thereof or of any interest therein shall be valid or effective unless agreed to and accepted in writing by the Lessor and, prior to the payment or performance of all obligations under the Loan Agreement and termination of the Commitments, the Lender, and no act by the Lessor or the Lender or any representative or agent of the Lessor or the Lender, other than a written acceptance, shall constitute an acceptance of any such surrender.

**ARTICLE XXIV
NO MERGER OF TITLE**

24.1. No Merger of Title. There shall be no merger of this Master Lease or of the leasehold estate created hereby by reason of the fact that the same Person may acquire, own or hold, directly or indirectly, in whole or in part,
(a) this Master Lease or the leasehold estate created hereby or any interest in

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this Master Lease or such leasehold estate, (b) the fee or groundleasehold estate in any Property, except as may expressly be stated in a written instrument duly executed and delivered by the appropriate Person or (c) a beneficial interest in the Lessor.

ARTICLE XXV INTENT OF THE PARTIES

25.1. Nature of Transaction.

(a) It is the intent of the parties that: (a) the Lease constitutes an operating lease from Lessor to the Lessee for purposes of the Lessee's financial reporting, (b) the Lease and other transactions contemplated will result in the Lessee being recognized as the owner of the Properties for Federal and state income tax and bankruptcy purposes, (c) each Lease Supplement grants to Lessor a Lien on the Lessee's interest in the Property covered thereby, and (d) the obligations of the Lessee to pay Basic Rent and any part of the Property Balance shall be treated as payments of interest and principal, respectively, for Federal and state income tax and bankruptcy purposes. The Lessor shall be deemed to have a valid and binding security interest in and Lien on the Lessee's interest in the Properties, free and clear of all Liens other than Permitted Property Liens, as security for the obligations of the Lessee under the Operative Documents (it being understood and agreed that the Lessee does hereby grant a Lien, and convey, transfer, assign, mortgage and warrant to Lessor and its successors, transferees and assigns, for the benefit of the Lessor and its successors, transferees and assigns, the Properties and any proceeds or products thereof, to have and hold the same as collateral security for the payment and performance of the obligations of the Lessee under the Operative Documents), each of the parties hereto agrees that it will not, nor will it permit any Affiliate to at any time, take any action or fail to take any action with respect to the preparation or filing of any income tax return, including an amended income tax return, to the extent that such action or such failure to take action would be inconsistent with the intention of the parties expressed in this Section 25.1.

(b) Specifically, without limiting the generality of clause (a) of this Section 25.1, the parties hereto intend and agree that in the event of any insolvency or receivership proceedings or a petition under the United States bankruptcy laws or any other applicable insolvency laws or statute of the United States of America or any State or Commonwealth thereof affecting Lessee, Lessor, any Participant or any collection actions, the

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transactions evidenced by the Operative Documents shall be regarded as loans made by the Participants to the Lessee.

ARTICLE XXVI MISCELLANEOUS

26.1. Survival; Severability; Etc. Anything contained in this Master Lease to the contrary notwithstanding, all claims against and liabilities of the Lessee or the Lessor arising from events commencing prior to the expiration or earlier termination of this Master Lease shall survive such expiration or earlier termination for a period of one year except as to indemnification which shall continue to survive. If any term or provision of this Master Lease or any application thereof shall be declared invalid or unenforceable, the remainder of this Master Lease and any other application of such term or provision shall not be affected thereby. If any right or option of the Lessee provided in this Master Lease, including any right or option described in Article XIV, XV, XVIII or XX, would, in the absence of the limitation imposed by this sentence, be invalid or unenforceable as being in violation of the rule against perpetuities or any other rule of law relating to the vesting of an interest in or the suspension of the power of alienation of property, then such right or option shall be exercisable only during the period which shall end twenty-one (21) years after the date of death of the last survivor of the descendants of Franklin D. Roosevelt, the former President of the United States, Henry Ford, the deceased automobile manufacturer, and John D. Rockefeller, the founder of the Standard Oil Company, known to be alive on the date of the execution, acknowledgement and delivery of this Master Lease.

26.2. Amendments and Modifications. Subject to the requirements, restrictions and conditions set forth in the Participation Agreement, neither this Master Lease nor any provision hereof may be amended, waived, discharged or terminated except by an instrument in writing in recordable form signed by the Lessor and the Lessee.

26.3. No Waiver. No failure by the Lessor, any Participant or the Lessee to insist upon the strict performance of any term hereof or to exercise any right, power or remedy upon a default hereunder, and no acceptance of full or partial payment of Rent during the continuance of any such default, shall constitute a waiver of any such default or of any such term. To the fullest extent permitted by law, no waiver of any default shall affect or alter this Master Lease, and this Master Lease shall continue in full force and effect with respect to any other then existing or subsequent default.

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26.4. Notices. All notices, demands, requests, consents, approvals and other communications hereunder shall be in writing and directed to the address described in, and deemed received in accordance with the provisions of, Section 15.3 of the Participation Agreement.

26.5. Successors and Assigns. All the terms and provisions of this Master Lease shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

26.6. Headings and Table of Contents. The headings and table of contents in this Master Lease are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

26.7. Counterparts. This Master Lease may be executed in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same instrument.

26.8. GOVERNING LAW. THIS MASTER LEASE SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES, EXCEPT AS TO MATTERS RELATING TO THE CREATION OF THE LEASEHOLD ESTATES HEREUNDER AND THE EXERCISE OF RIGHTS AND REMEDIES WITH RESPECT THERETO, WHICH SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF CALIFORNIA. WITHOUT LIMITING THE FOREGOING, IN THE EVENT THAT THIS MASTER LEASE IS DEEMED TO CONSTITUTE A FINANCING WHICH IS THE INTENTION OF THE PARTIES, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES, SHALL GOVERN THE CREATION, TERMS AND PROVISIONS OF THE INDEBTEDNESS EVIDENCED HEREBY, BUT THE LIEN CREATED HEREBY AND THE CREATION AND THE ENFORCEMENT OF SAID LIEN SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATES IN WHICH SUCH ESTATES ARE LOCATED.

26.9. Liability Limited. The parties hereto agree that except as specifically set forth in this Master Lease or in any other Operative Document, the Lessor shall have no personal liability whatsoever to the Lessee or the Lender or their respective successors and assigns for any claim based on or in respect of this Master Lease or any of the other Operative Documents or arising in any way from the transactions contemplated hereby or thereby and the recourse shall be solely had against the Lessor's interest in the Properties; provided, however, that Lessor shall be liable in its individual capacity (a) for its own willful misconduct or gross negligence, (b) breach of any of its representations, warranties or covenants under the Operative Documents, or (c) for any Tax based on or

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measured by any fees, commission or compensation received by it for acting as the Lessor as contemplated by the Operative Documents.

26.10. Original Lease. The single executed original of this Master Lease marked "THIS COUNTERPART IS THE ORIGINAL EXECUTED COUNTERPART" on the signature page thereof and containing the receipt thereof of Union Bank of Switzerland, New York Branch, as the Lender therefor on or following the signature page thereof shall be the Original Executed Counterpart of this Master Lease (the "Original Executed Counterpart"). To the extent that this Master Lease constitutes chattel paper, as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest in this Master Lease may be created through the transfer or possession of any counterpart other than the Original Executed Counterpart.

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IN WITNESS WHEREOF, the parties have caused this Master Lease be duly executed and delivered as of the date first above written.

**CISCO SYSTEMS, INC.,
as Lessee**

By

Name:

Title:

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**UBS MORTGAGE FINANCE INC.,
as Lessor**

By

Name:

Title:

By

Name:

Title:

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THIS COUNTERPART IS THE ORIGINAL EXECUTED COUNTERPART.

Receipt of this original counterpart of the foregoing Lease is hereby acknowledged as of the date hereof.

UNION BANK OF SWITZERLAND,
acting through its New York
Branch,
as Lender

By

Name:

Title:

By

Name:

Title:

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[EXECUTION COPY]

APPENDIX A

to
Participation Agreement,
Master Lease,
Lease Supplements
Loan Agreement,
Construction Agency Agreement,
Mortgages,
Pledge Agreement

DEFINITIONS AND INTERPRETATION

A. Interpretation. In each Operative Document, unless a clear contrary intention appears:

(i) the singular number includes the plural number and vice versa;

(ii) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by the Operative Documents, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;

(iii) reference to any gender includes each other gender;

(iv) reference to any agreement (including any Operative Document), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms of the other Operative Documents and reference to any promissory note includes any promissory note which is an extension or renewal thereof or a substitute or replacement therefor;

(v) reference to any Applicable Law means such Applicable Law as amended, modified, codified, replaced or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder and reference to any section or other provision of any Applicable Law means that provision of such Applicable Law from time to time in effect and constituting the substantive

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amendment, modification, codification, replacement or reenactment of such section or other provision;

(vi) reference in any Operative Document to any Article, Section, Appendix, Schedule or Exhibit means such Article or Section thereof or Appendix, Schedule or Exhibit thereto;

(vii) "hereunder", "hereof", "hereto" and words of similar import shall be deemed references to an Operative Document as a whole and not to any particular Article, Section or other provision thereof;

(viii) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term;

(ix) relative to the determination of any period of time, "from" means "from and including" and "to" means "to but excluding"; and

(x) with respect to any rights and obligations of the parties under the Operative Documents, all such rights and obligations shall be construed to the extent permitted by Applicable Law.

B. Computation of Time Periods. For purposes of computation of periods of time under the Operative Documents, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

C. Accounting Terms and Determinations. Unless otherwise specified in any Operative Document, all terms of an accounting character used therein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with GAAP, applied on a basis consistent (except for changes concurred in by the Lessee's independent public accountants or otherwise required by a change in GAAP) with the most recent audited consolidated financial statements of the Lessee and its consolidated Subsidiaries delivered to the Lessor and the Lender unless with respect to any such change concurred in by the Lessee's independent public accountants or required by GAAP, in determining compliance with any of the provisions of any Operative Document, the Lessee shall have objected to determining such compliance on such basis at the time of delivery of such financial statements, in which event such calculations shall be made on a basis consistent with those used in the preparation of

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the latest financial statements as to which such objection shall not have been made.

D. Conflict in Operative Documents. If there is any conflict between any Operative Documents, such Operative Document shall be interpreted and construed, if possible, so as to avoid or minimize such conflict but, to the extent (and only to the extent) of such conflict, the Participation Agreement shall prevail and control.

E. Legal Representation of the Parties. The Operative Documents were negotiated by the parties with the benefit of legal representation and any rule of construction or interpretation otherwise requiring the Operative Document to be construed or interpreted against any party shall not apply to any construction or interpretation hereof or thereof.

F. Defined Terms. Unless a clear contrary intention appears, terms defined herein have the respective indicated meanings when used in each Operative Document.

"Account" means the account established by the Lessee with the Lender pursuant to which all payments by the Lessee under the Operative Documents shall be made. The Account shall be specified on Schedule II to the Participation Agreement, as such Schedule may from time to time be amended, supplemented, amended and restated or otherwise modified from time to time.

"Acquisition Date" is defined in Section 6.1 of the Participation Agreement.

"Additional Collateral" means any of the following obligations which have been issued by the United States of America, registered under the name of Union Bank of Switzerland and delivered under the Pledge Agreement:

(a) all allotments, accretions, offers, rights, benefits and advantages whatsoever at any time accruing, offered or arising in respect of or incidental to the same or in respect of or incidental to any securities, rights, moneys or other property previously accruing, offered or arising as mentioned in this clause (a); and

(b) all proceeds of sale, dividends, interest and other distributions or income hereafter paid or payable or made in respect of the same or the securities, rights, moneys or other property falling within clause (a) above or deriving from any investment of any such dividends, interest

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and other distributions or income; also includes (without limitation):

(i) obligations of the United States of America having a maturity of not more than one (1) year from the date of issue and commonly known as "treasury bills"; and

(ii) obligations of the United States of America having a maturity greater than one year, but no more than ten (10) years, from the date of issue and commonly known as "treasury notes".

"Adjusted Eurodollar Rate" means the applicable London Interbank Offered Rate, as applicable to any Interest Period and, in the event Lender is required to maintain reserves against "Eurocurrency Liabilities" under Regulation D, during such period the Adjusted Eurodollar Rate shall mean a rate per annum equal to the quotient obtained (rounded upwards, if necessary, to the next higher 1/100th of 1%) by dividing (i) the applicable London Interbank Offered Rate for such Interest Period by (ii) 1.00 minus the Eurodollar Reserve Percentage.

"Advance" means an advance of funds to the Lessee pursuant to Article III of the Participation Agreement.

"Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such Person. For purposes of this definition, "control" when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"After Tax Basis" means, with respect to any payment to be received, the amount of such payment increased so that, after deduction of the amount of all taxes required to be paid by the recipient (less any tax savings realized and the present value of any tax savings projected to be realized by the recipient as a result of the payment of the indemnified amount) with respect to the receipt by the recipient of such amounts, such increased payment (as so reduced) is equal to the payment otherwise required to be made.

"Applicable Law" means all existing and future applicable laws, rules, regulations (including Hazardous Materials Laws) statutes, treaties, codes, ordinances, permits, certificates,

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orders and licenses of and interpretations by, any Governmental Authority, and applicable judgments, decrees, injunctions, writs, orders or like action of any court, arbitrator or other administrative, judicial or quasi-judicial tribunal or agency of competent jurisdiction (including those pertaining to health, safety or the environment (including, without limitation, wetlands) and those pertaining to the construction, use or occupancy of any Property) or in each case affecting the Lessee, any Property or any material interests in any other kind of property or asset, whether real, personal or mixed, or tangible or intangible, of the Lessee.

"Appraisal" means, with respect to each Property, an appraisal of such Property as if improved in accordance with the Plans and Specifications, which Appraisal complies in all material respects with all of the provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended, the rules and regulations adopted pursuant thereto, and all other applicable Requirements of Law addressed to the Lender, the Lessor and the Lessee, and will appraise the Fair Market Sales Value of such Property as built in accordance with the applicable Plans and Specifications therefor as of the Completion Date for such Property and as of the Expiration Date. Each Appraisal shall be prepared by a reputable appraiser selected by the Lender and the Lessor, and such appraiser shall be reasonably acceptable to the Lessee. Each such Appraisal may "bring-down" by a letter a previously delivered appraisal meeting the above requirements.

"Appraiser" means, with respect to any Property, the appraiser which prepared the Appraisal or such other Person selected by the Lender and the Lessor.

"Appurtenant Rights" means, with respect to any Land, (i) all agreements, easements, rights of way or use, rights of ingress or egress, privileges, appurtenances, tenements, hereditaments and other rights and benefits at any time belonging or pertaining to such Land or the Improvements thereon, including, without limitation, the use of any streets, ways, alleys, vaults or strips of land adjoining, abutting, adjacent or contiguous to such Land and (ii) all permits, licenses and rights, whether or not of record, appurtenant to such Land.

"Assignment of Lease and Rent" means the Assignment of Lease and Rent dated as of December 27, 1996, from the Lessor, as assignor, to the Lender, as assignee, as the same may be amended, supplemented, amended and restated or otherwise modified from time to time.

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"Available Commitments" means the Available Loan Commitments and the Available Lessor Commitments.

"Available Lessor Commitment" means at any time, an amount equal to the excess, if any, of (x) the aggregate amount of the Lessor Commitments minus (y) the aggregate outstanding amounts of the Lessor Amounts.

"Available Loan Commitment" means at any time, an amount equal to the excess, if any, of (x) the aggregate amount of the Loan Commitments minus (y) the aggregate outstanding principal amounts of all Loans.

"Bankruptcy Code" is defined in Section 5.1(e) of the Loan Agreement.

"Base Rate" means, for any day, the rate per annum equal to one-half of one percent above the Federal Funds Rate.

"Base Rate Loan(s)/Lessor Amount(s)" means a Loan or Lessor Amount, as the case may be, bearing interest at the Base Rate.

"Base Lease Term (Improvements)" is defined in Section 2.3 of the Master Lease.

"Basic Lease Term (Land)" is defined in Section 2.3 of the Master Lease.

"Basic Rent" means, for each Property, the sum of (i) the Lender Basic Rent and (ii) the Lessor Basic Rent, calculated as of the applicable date on which Basic Rent is due.

"Basic Rent Payment Date" means the last day of each Interest Period then in effect.

"Benefit Arrangement" means at any time an employee benefit plan within the meaning of Section 3(3) of ERISA which is not a Plan or a Multiemployer Plan and which is maintained or otherwise contributed to by any member of the ERISA Group.

"Bill of Sale" is defined in Section 6.1(j) of the Participation Agreement.

"Break Costs" means an amount equal to the amount, if any, required to compensate any Participant for any additional losses (including, without limitation, any loss, cost or expense incurred by reason of the liquidation or reemployment of deposits or funds acquired by such Participant to fund its obligations under the Operative Documents) it may reasonably incur as a

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result of (v) the Lessee's payment of Rent other than on a Basic Rent Payment Date, (x) any Advance not being made on the date specified therefor in the applicable Funding Request (other than as a result of a breach by such Participant, as the case may be, of its obligation under Section 3.1, 3.2 or 3.3, as the case may be, of the Participation Agreement to make Advances to the Lessee or make Lessor Amounts or Loans available to the Lessor), (y) the Lessee's payment of the Lease Balance on any date other than a Basic Rent Payment Date, or (z) as a result of any conversion of the Eurodollar Rate in accordance with Section 13.7 of the Participation Agreement. A statement as to the amount of such loss, cost or expense, prepared in good faith and in reasonable detail and submitted by such Participant, as the case may be, to the Lessee, shall be presumed correct and binding on the Lessee absent demonstrable error.

"Business Day" means a day other than a Saturday, Sunday or other day on which commercial banks in New York, New York or San Francisco, California are authorized or required by law to close, except that, when used in connection with a Eurodollar Loan or Eurodollar Lessor Amount, such day shall also be a day on which dealings between banks are carried on in U.S. dollar deposits in London, England, San Francisco, California and New York, New York.

"Capital Lease" means any lease of property, real or personal, the obligations with respect to which are required to be capitalized on a balance sheet of the lessee in accordance with GAAP.

"Capital Lease Obligations" means the capitalized lease obligations relating to a Capital Lease determined in accordance with GAAP.

"Casualty" means any damage or destruction of all or any portion of a Property as a result of a fire or other casualty.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9601 et. seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, as otherwise amended or modified from time to time, or any successor statute thereto.

"Certifying Party" is defined in Section 22.1 of the Master Lease.

"Claims" means any and all obligations, liabilities, losses, actions, suits, judgments, penalties, fines, claims, demands,

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settlements, costs and expenses (including, without limitation, reasonable legal fees and expenses) of any nature whatsoever.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, or any successor statute thereto.

"Commitment" means (i) as to the Lender, the Loan Commitment, and (ii) as to the Lessor, the Lessor Commitment.

"Commitment Letter" means that certain Commitment Letter, dated as of November 25, 1996, among the Lessee, the Lessor and the Lender.

"Commitment Percentage" means, with respect to any Participant, the percentage set forth such Participant's name under the heading "Commitment Percentage" on Schedule I to the Participation Agreement, as such Schedule may be amended, supplemented, amended and restated or otherwise modified from time to time.

"Commitment Period" means, with respect to each Property, the period from and including the Acquisition Date to but not including the date occurring on the earlier of (i) the Commitment Termination Date, (ii) the date on which the sum of the Loan Balance and the Lessor Balance equals the Maximum Commitment Amount, subject to Section 4.3 of the Participation Agreement, (iii) the date of Completion of the applicable Construction and (iv) the date on which the Commitments shall terminate as provided in the Operative Documents; provided, however, that in the event that any Commitment Period would end after the Final Commitment Termination Date, such Commitment Period shall end on such Final Commitment Termination Date.

"Commitment Termination Date" means the date specified in a written notice from the Lessee to the Lessor and Lender as the Commitment Termination Date.

"Commonly Controlled Entity" means an entity, whether or not incorporated, which is under common control with the Lessee within the meaning of Section 4001 of ERISA or is part of a group which includes the Lessee and which is treated as a single employer under Section 414 of the Code.

"Completion" means, with respect to any Property, such time as the conditions set forth in Section 6.3 of the Participation Agreement are satisfied with respect thereto.

"Completion Certificate" is defined in Section 6.3(a) of the Participation Agreement.

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"Completion Date" means, with respect to any Property, the date determined under Section 6.3 of the Participation Agreement.

"Condemnation" means, with respect to any Property, any condemnation, requisition, confiscation, seizure or other taking or sale of the use, access, occupancy, easement rights or title to such Property or any part thereof, wholly or partially (temporarily or permanently), by or on account of any actual or threatened eminent domain proceeding or other taking of action by any Person having the power of eminent domain, including an action by a Governmental Authority to change the grade of, or widen the streets adjacent to, such Property or alter the pedestrian or vehicular traffic flow to such Property so as to result in change in access to such Property, or by or on account of an eviction by paramount title or any transfer made in lieu of any such proceeding or action. A "Condemnation" shall be deemed to have occurred on the earliest of the dates that use, occupancy or title vests in the condemning authority.

"Consolidated Subsidiary" means at any date any Subsidiary or other entity the accounts of which would be consolidated with those of the Lessee in its consolidated financial statements if such statements were prepared as of such date.

"Consolidated Tangible Net Worth" means at any date the consolidated stockholders' equity of the Lessee and its Consolidated Subsidiaries less their consolidated Intangible Assets, all determined as of such date. For purposes of this definition, "Intangible Assets" means the amount (to the extent reflected in determining such consolidated stockholders' equity) of (i) all write-ups (other than write-ups resulting from foreign currency translations and write-ups of assets of a going concern business made within twelve months after the acquisition of such business) subsequent to January 29, 1995 in the book value of any asset owned by the Lessee or a Consolidated Subsidiary, and (ii) all unamortized debt discount and expense, unamortized deferred charges, goodwill, patents, trademarks, service marks, trade names, anticipated future benefit of tax loss carry-forwards, copyrights, organization or developmental expenses and other intangible assets.

"Construction" means, with respect to any Property, the construction and installation of all Improvements thereon contemplated by the Plans and Specifications applicable to such Property.

"Construction Agency Agreement" means the Construction Agency Agreement, dated as of December 27, 1996, between the

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Lessor and the Lender, as the same may be amended, supplemented, amended and restated or otherwise modified from time to time.

"Construction Agency Agreement Assignment" means the Construction Agency Agreement Assignment, dated as of December 27, 1996, made by the Lessor, as assignor, in favor of the Lender, as assignee, as the same may be amended, supplemented, amended and restated or otherwise modified from time to time.

"Construction Agency Agreement Default" means any event or condition which, with the lapse of time or the giving of notice, or both, would constitute a Construction Agency Agreement Event of Default.

"Construction Agency Agreement Event of Default" means a "Construction Agency Agreement Event of Default" as defined in Section 5.1 of the Construction Agency Agreement.

"Construction Agency Agreement Supplement" means any duly executed and delivered Supplement to the Construction Agency Agreement substantially in the form attached to the Construction Agency Agreement as Exhibit A thereto.

"Construction Agent" means the Lessee, as construction agent under the Construction Agency Agreement.

"Construction Costs" means the fees, expenses, costs and other items related to the development and construction of the Properties and specified below:

(a) the costs of development, architectural and engineering services related to the Properties, including the costs of preparation of studies, surveys, reports, tests, plans and specifications;

(b) the costs of legal, accounting and other services related to the Properties and other improvements;

(c) the fees and charges incurred in connection with securing all Governmental Actions required to be taken, given or obtained in connection with the development, construction, ownership, financing, maintenance or operation of the Properties;

(d) any title fees, premiums and escrow costs and other expenses relating to title insurance and the closings contemplated by the Operative Documents;

(e) all expenses relating to all Environmental Audits;

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- (f) fees and other expenses relating to Appraisals;
- (g) the costs incurred in connection with the acquisition, construction, improvement, rehabilitation or extension of the Improvements comprising a part of the Properties and the provision of the necessary services and utilities thereto;
- (h) interest on the Loans and Yield on the Lessor Amounts during the Construction Period in respect to each Property;
- (i) the Fees of the Lessor and the Lender;
- (j) any sales, use, property, real or personal, tangible or intangible taxes incurred in connection with the Properties;
- (k) any other items included in the construction budget;
- (l) any other costs and expenses incurred in connection with the acquisition, construction, development and equipping of the Properties; and
- (m) such other items as the Participants may reasonably approve in writing.

"Construction Documents" is defined in Section 2.7 of the Construction Agency Agreement.

"Construction Documents Assignment" means the Construction Documents Assignment, dated as of December 27, 1996, made by the Construction Agent in favor of the Lessor and delivered pursuant to the Construction Agency Agreement, as the same may be amended, supplemented, amended and restated or otherwise modified from time to time.

"Construction Period" means, with respect to any Property, the period commencing on the commencement of construction on such Property and ending on the Completion Date for such Property.

"Construction Period Property" means, at any date of determination, any Property as to which the Construction Period has commenced but not ended on or prior to such date.

"Contractual Obligations" means, as to any Person, any provision of any security issued by such Person or of any

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agreement, instrument or undertaking to which such Person is a party or by which it or any of its property is bound.

"CPS" is defined in the first recital to the Participation Agreement.

"Deed" means a quitclaim, grant or special warranty deed, as applicable, with respect to the real property comprising the applicable Property, in conformity with Applicable Law and appropriate for recording with the applicable Governmental Authorities, conveying fee simple title to such real property to the Lessor, subject only to Permitted Exceptions.

"Default" means any Event of Default or any condition, occurrence or event which, after notice or lapse of time or both, would constitute an Event of Default.

"Deficiency Collateral" is defined in Section 14.1 of the Participation Agreement.

"Deficiency Date" is defined in Section 14.1 of the Participation Agreement.

"Documentation Date" is defined in Section 2.1 of the Participation Agreement.

"Dollars" and "\$" mean dollars in lawful currency of the United States of America.

"End of the Term Report" is defined in Section 13.2(a) of the Participation Agreement.

"Environmental Audit" means, with respect to each Property, a Phase One environmental site assessment (the scope and performance of which meets or exceeds the then most current ASTM Standard Practice E1527 for Environmental Site Assessments: Phase One Environmental Site Assessment Process) of such Property.

"Environmental Laws" means any and all applicable foreign, Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes or decrees of any Governmental Authority or other Requirement of Law (including common law) regulating, relating to or imposing liability or standards of conduct concerning protection of human health or the environment or the use, storage, handling, disposal, transport, treatment or generation of Hazardous Materials, as now or may at any time be in effect during the Lease Term, including CERCLA, RCRA, the Clean Air Act, 42 USC Section 7401 et seq., the Toxic

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Substances Control Act 15 USC Section 2601 et seq. and any rules, regulations and guidance documents promulgated thereunder.

"Environmental Violation" means, with respect to any Property, any activity, occurrence or condition that violates or results in non-compliance with any Hazardous Materials Law.

"Equipment" means equipment, apparatus, furnishings, fittings and personal property of every kind and nature whatsoever purchased, leased or otherwise acquired by the Lessor using the proceeds of the Loans and/or the Lessor Amounts and now or subsequently attached to, contained in or used or usable in any way in connection with any operation or letting of a Property, including but without limiting the generality of the foregoing, all screens, awnings, shades, blinds, curtains, draperies, artwork, carpets, rugs, storm doors and windows, shelving, display cases, counters, furniture and furnishings, heating, electrical, switch gear, uninterrupted power supply, and mechanical equipment, lighting, switchboards, plumbing, ventilation, air conditioning and air-cooling apparatus, refrigerating, and incinerating equipment, escalators, generators, elevators, loading and unloading equipment and systems, stoves, ranges, laundry equipment, cleaning systems (including window cleaning apparatus), telephones, communications systems (including satellite dishes and antennae), televisions, computers, sprinkler systems and other fire prevention and extinguishing apparatus and materials, security systems, motors, engines, machinery, pipes, pumps, tanks, conduits, appliances, fittings and fixtures of every kind and description.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, or any successor statute.

"ERISA Group" means, with respect to the Lessee, the Lessee and all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with the Lessee, are treated as a single employer under Section 414 of the Code.

"Estimated Improvement Costs" means, with respect to any Property as of the related Acquisition Date, an amount equal to the aggregate amount which the Construction Agent in good faith expects to be expended in order to achieve Completion with respect to Improvements for such Property, including (i) Construction Costs, and (ii) Transaction Expenses, in each case allocated with respect to such Property during its Construction Period.

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"Eurodollar Loan(s)/Lessor Amount(s)" means a Loan or Lessor Amount, as the case may be, bearing interest at the Adjusted Eurodollar Rate.

"Eurodollar Reserve Percentage" means that percentage (expressed as a decimal) which is in effect on any day that a reserve percentage is prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the maximum reserve requirement for a member bank of the Federal Reserve System in respect of "Eurocurrency liabilities" (or in respect of any other category of liabilities which includes deposits by reference to which the interest rate on Eurodollar Loans is determined or any category of extensions of credit or other assets which includes loans by a non-United States office of any Bank to United States residents). The London Interbank Offered Rate shall be adjusted automatically on and as of the effective date of any change in the Eurodollar Reserve Percentage.

"Event of Default" means a Lease Event of Default.

"Excess Casualty/Condemnation Proceeds" means the excess, if any, of (x) the aggregate of all awards, compensation or insurance proceeds payable in connection with a Casualty or Condemnation minus (y) the Property Balance paid by the Lessee pursuant to Article XV of the Master Lease with respect to such Casualty or Condemnation.

"Excess Sales Proceeds" means the excess, if any, of (x) the aggregate of all proceeds received by the Lessor in connection with the Lessee's exercise of the Remarketing Option under Article XX of the Master Lease, less all fees, costs and expenses of the Lessor in connection with the exercise of its rights and remedies thereunder, minus (y) the Lease Balance.

"Expiration Date" means, with respect to the Master Lease, unless the Master Lease shall have been earlier terminated in accordance with the provisions of the Master Lease or any of the other Operative Documents, the Maturity Date.

"Expiration Date Purchase Obligation" means the Lessee's obligation, pursuant to Section 20.1 of the Master Lease, to purchase all (but not less than all) of the Properties on the Expiration Date.

"Extension Conditions" is defined in Section 11.2 of the Participation Agreement.

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"Fair Market Sales Value" means, with respect to any Property, the amount, which in any event shall not be less than zero, that would be paid in cash in an arm's-length transaction between an informed and willing purchaser and an informed and willing seller, neither of whom is under any compulsion to purchase or sell, respectively, for the ownership of such Property. The Fair Market Sales Value of any Property shall be determined based on the assumption that, except for purposes of Article XVI of the Master Lease and Section 13.2 of the Participation Agreement, such Property is in the condition and state of repair required under Section 9.1 of the Master Lease and the Lessee is in compliance with the other requirements of the Operative Documents relating to the condition of the Property.

"Federal Funds Rate" means, for any day or period, as applicable, the rate per annum (rounded upwards, if necessary, to the nearest 1/100th of 1%) at which Federal funds in the amount equal to the principal amount of the related Loans or Lessor Amounts are offered in the interbank market to Union Bank of Switzerland, New York Branch, as of 11:00 a.m., New York time, on such day for such day or for such period, as applicable.

"Fees" means, collectively, the fees set forth in the Commitment Letter paid or payable to the Lessor and/or the Lender.

"Final Commitment Termination Date" means December 27, 2003, the seventh year anniversary of the Documentation Date, unless the Maturity Date shall have been extended pursuant to Section 2.8 of the Loan Agreement and Section 11.1 of the Participation Agreement, in which case, the "Final Commitment Termination Date" shall mean December 27, 2006, the tenth year anniversary of the Documentation Date.

"Fixed Charge Coverage Ratio" means the following (as calculated on a rolling four quarter basis):

(Consolidated Net Income + Interest Expense + Taxes
+ Depreciation + Amortization + Write Off of Goodwill related to an Acquisition - Cash - Short Term Investments)
(Interest Expense + Total Rent Expense)

"Force Majeure Event" means, with respect to the Construction of any Property, any event (the existence of which was not known and could not have been discovered through the exercise of reasonable due diligence by the Lessee or the Construction Agent prior to the Acquisition Date with respect to such Property) beyond the control of the Lessee and the Construction Agent, including, but not limited to, strikes,

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lockouts, adverse soil conditions, acts of God, adverse weather conditions, inability to obtain labor or materials, government activities, civil commotion and enemy action; but excluding any event, cause or condition that results from the Construction Agent's financial condition or failure to pay or any event, cause or condition which could have been avoided or which could be remedied through the exercise of commercially reasonable efforts or the commercially reasonable expenditure of funds.

"F.R.S. Board" means the Board of Governors of the Federal Reserve System or any successor thereto.

"Funding Date" means the date in each month on which an Advance is made. In the event that any Funding Date shall not fall on a Business Day, then the Funding Date for such calendar month in which such event occurs shall be the immediately succeeding Business Day.

"Funding Office" means the office of each Participant identified on Schedule II to the Participation Agreement as its Funding Office.

"Funding Request" is defined in Section 3.4(a) of the Participation Agreement.

"GAAP" means generally accepted accounting principles applied on a basis consistent with those which, in accordance with paragraph C hereof, are to be used in making the calculations for purposes of determining compliance with the terms of the Operative Documents.

"Governmental Action" means all permits, authorizations, registrations, consents, approvals, waivers, exceptions, variances, orders, judgments, written interpretations, decrees, licenses, exemptions, publications, filings, notices to and declarations of or with, or required by, any Governmental Authority, or required by any Applicable Law, and shall include, without limitation, all environmental and operating permits and licenses that are required for the use, occupancy, zoning and operation of any Property as provided in the Master Lease.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, and having jurisdiction over any Property or the Operative Documents, as applicable.

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"Gross Remarketing Proceeds" is defined in Section 20.1(m) of the Master Lease.

"Hazardous Activity" means any activity, process, procedure or undertaking that (a) directly or indirectly (i) produces, generates or creates any Hazardous Material; (ii) causes or results in (or threatens to cause or result in) the Release of any Hazardous Material into the environment (including air, water vapor, surface water, groundwater, drinking water, land (including surface or subsurface), plant, aquatic and animal life); or (iii) involves the containment or storage of any Hazardous Material; and (b) is regulated as hazardous waste treatment, storage or disposal within the meaning of any Hazardous Materials Law.

"Hazardous Materials" means any hazardous, toxic or dangerous materials, substances, chemicals, wastes or pollutants that from time to time are defined by or pursuant to or are regulated under any Hazardous Materials Laws, including asbestos, polychlorinated biphenyls, petroleum, petroleum derivatives or by-products, other hydrocarbons, urea formaldehyde and any material, substance, pollutant or waste that is defined as a hazardous waste under RCRA or defined as a hazardous substance under CERCLA.

"Hazardous Materials Laws" means all laws, statutes, rules, regulations or ordinances of Governmental Authority, now or hereafter in effect, relating to the generation, recycling, use, reuse, sale, storage, handling, transport, treatment or disposal of Hazardous Materials, including CERCLA, RCRA, the Clean Air Act, 42 U.S.C. Section 7401, et seq. ("CAA"), the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq. ("TSCA") and any rules, regulations and guidance documents promulgated or published thereunder, and any statute, law, rule, regulation or ordinance of Governmental Authority now or hereafter in effect that relates to public health, safety or the discharge, emission or disposal of Hazardous Materials in or to air, water, land or groundwater, to the withdrawal or use of groundwater, to the use, handling or disposal of asbestos, polychlorinated biphenyls, petroleum, petroleum derivatives or by-products, other hydrocarbons or urea formaldehyde, to the treatment, storage, disposal or management of Hazardous Materials, to exposure to Hazardous Materials or to the transportation, storage, disposal, management or release of gaseous or liquid substances, and any regulation, order, injunction, judgment, declaration, notice or demand issued thereunder.

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"Impositions" means any and all liabilities, losses, expenses and costs of any kind whatsoever for fees, taxes, levies, imposts, duties, charges, assessments or withholdings of any nature whatsoever imposed by Governmental Authority ("Taxes") (including, without limitation, (i) real and personal property taxes, including personal property taxes on any property covered by any Lease that is classified by Governmental Authorities as personal property, and real estate or ad valorem taxes in the nature of property taxes; (ii) sales taxes, use taxes and other similar taxes (including rent taxes and intangibles taxes); (iii) any excise taxes; (iv) real estate transfer taxes, conveyance taxes, mortgage taxes, intangible taxes, stamp taxes and documentary recording taxes and fees; (v) taxes that are or are in the nature of franchise, income, value added, gross receipts, privilege and doing business taxes, license and registration fees; and (vi) assessments on any Property, including all assessments for public improvements or benefits, whether or not such improvements are commenced or completed within the Lease Term), and in each case all interest, additions to tax and penalties thereon, which at any time may be levied, assessed or imposed by any Federal, state or local authority upon or with respect to (a) any Tax Indemnitee, any Property or any part thereof or interest therein, or the Lessee or any sublessee or user of any Property; (b) the financing, refinancing, demolition, construction, substitution, subleasing, assignment, control, condition, occupancy, servicing, maintenance, repair, ownership, possession, purchase, rental, lease, activity conducted on, delivery, insuring, use, operation, improvement, transfer, return or other disposition of such Property or any part thereof or interest therein; (c) the Notes or interest therein or transfer thereof; (d) the rentals, receipts or earnings arising from any Property or any part thereof or interest therein; (e) the Operative Documents or any payment made or accrued pursuant thereto; (f) the income or other proceeds received with respect to any Property or any part thereof or interest therein upon the sale or disposition thereof; (g) any contract (including the Construction Agency Agreement) relating to the construction, acquisition or delivery of the Improvements or any part thereof or interest therein; (h) the issuance of the Notes; or (i) otherwise in connection with the transactions contemplated by the Operative Documents. Impositions for any given tax year shall exclude assessment installments that are not due and payable during such tax year.

Notwithstanding anything in the first paragraph of this definition (except as provided in the final paragraph of this definition) the term "Imposition" shall not mean or include:

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(i) Taxes and impositions (other than Taxes that are, or are in the nature of, sales, use, rental, transfer or property taxes) that are imposed by any Governmental Authority and that are based upon or measured by or with respect to the gross or net income or gross or net receipts (including, without limitation, any minimum taxes, income or capital gains taxes, withholding taxes or taxes on, measured by or with respect to or in the nature of capital, net worth, excess profits, items of tax preference, capital stock, franchise, gift, succession, estate, business privilege or doing business taxes or any similar taxes or taxes in lieu thereof) and any interest, additions to tax, penalties or other charges in respect thereof and any withholding tax imposed as a collection device for, in lieu of, or otherwise related to the foregoing without regard to whether such tax is required to be collected by Lessee and without regard to whether Lessee would be liable for such withholding tax in the event it failed to so withhold; provided that this clause (i) shall not be interpreted to prevent a payment from being made on an After Tax Basis if such payment is otherwise required to be so made;

(ii) any Tax or imposition to the extent, but only to such extent, it relates to any act, event or omission that occurs, or relates to a period, after the termination of the Master Lease (but not any Tax or imposition that relates to any period prior to the termination of the Master Lease with respect to the Property to which such Imposition relates);

(iii) any Tax or imposition for so long as, but only for so long as, it is being contested in accordance with the provisions of Section 13.5(b) of the Participation Agreement, provided that the foregoing shall not limit any Lessee's obligation under Section 13.5(b) of the Participation Agreement to advance to such Tax Indemnitee amounts with respect to Taxes that are being contested in accordance with Section 13.5(b) of the Participation Agreement or any expenses incurred by such Tax Indemnitee in connection with such contest;

(iv) any interest, additions to tax or penalties imposed on a Tax Indemnitee as a result of a breach by such Tax Indemnitee of its obligations under Section 13.5(e) of the Participation Agreement as a result of a Tax Indemnitee's failure to file any return or other documents timely and as prescribed by applicable law; provided that this clause (iv) shall not apply (x) if such interest or penalties arise as a result of a position taken (or requested to be taken) by the Lessee in a contest controlled

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by the Lessee under Section 13.5(b) of the Participation Agreement or

(y) if such failure is attributable to a failure by the Lessee to fulfill its obligations under the Master Lease with respect to any such return;

(v) any Taxes or impositions imposed upon a Tax Indemnitee with respect to any voluntary transfer, sale, financing or other voluntary disposition of any interest in any Property or any part thereof, or any interest therein or any interest or obligation under the Operative Documents or from any sale, assignment, transfer or other disposition of any interest in a Tax Indemnitee or any Affiliate thereof, (other than any transfer pursuant to the terms of the Master Lease in connection with (1) the exercise by the Lessee of its Purchase Option or any termination option or other purchase of any Property by any Lessee, (2) the occurrence of an Event of Default, (3) a Casualty or Condemnation affecting any Property, or (4) any sublease, modification or addition to any Property by the Lessee);

(vi) any Taxes or impositions imposed on a Tax Indemnitee, to the extent such Tax Indemnitee actually receives a credit (or otherwise has a reduction in a liability for Taxes) in respect thereof against Taxes that are not indemnified under the Participation Agreement (but only to the extent such credit is not taken into account in calculating the indemnity payment on an After Tax Basis);

(vii) Taxes imposed on or with respect to or payable by any Tax Indemnitee based on, measured by or imposed with respect to any fees or rents received by such Tax Indemnitee;

(viii) any Taxes imposed against or payable by a Tax Indemnitee resulting from, or that would not have been imposed but for, the gross negligence or willful misconduct of such Tax Indemnitee;

(ix) Taxes imposed on or payable by a Tax Indemnitee to the extent such Taxes result from or would not have been imposed but for, a breach by the Tax Indemnitee or any Affiliate thereof of any representations, warranties or covenants set forth in the Operative Documents (unless such breach is directly caused by any Lessee's breach of its representations, warranties or covenants set forth in the Operative Documents);

(x) Taxes to the extent resulting from such Tax Indemnitee's failure to comply with the provisions of

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Section 13.5(b) of the Participation Agreement, which failure precludes or materially adversely affects the ability to conduct a contest pursuant to Section 13.5(b) of the Participation Agreement (unless such failure is caused by the Lessee's breach of its obligations);

(xi) with respect to each Property, Taxes which are included in applicable Property Improvements Cost or applicable Land Acquisition Cost if and to the extent actually paid;

(xii) Taxes that would have been imposed in the absence of the transactions contemplated by the Operative Documents and Taxes imposed on or with respect to or payable as a result of activities of a Tax Indemnitee or Affiliate thereof unrelated to the transactions contemplated by the Operative Documents or not specifically authorized by Lessee or the Operative Documents;

(xiii) Taxes imposed on or with respect to or payable by a Tax Indemnitee resulting from, or that would not have been imposed but for the existence of, any Lessor Lien created by or through such Tax Indemnitee or an Affiliate thereof and not caused by acts or omissions of any Lessee, unless required to be removed by any Lessee;

(xiv) Any Tax imposed against or payable by a Tax Indemnitee to the extent that the amount of such Tax exceeds the amount of such Tax that would have been imposed against or payable by such Tax Indemnitee (or, if less, that would have been subject to indemnification under Section 13.5 of the Participation Agreement) if such Tax Indemnitee were not a direct or indirect successor, transferee or assign of one of the original Tax Indemnitees; provided, however, that this exclusion (xiv) shall not apply if such direct or indirect successor, transferee or assign acquired its interest as a result of a transfer permitted under the Operative Documents pursuant to and while an Event of Default shall have occurred and is continuing;

(xv) Taxes imposed on or with respect to or payable by a Tax Indemnitee that would not have been imposed but for an amendment, supplement, modification, consent or waiver to any Operative Document not initiated, requested or consented to by any Lessee unless such amendment, supplement, modification, consent or waiver (A) arises due to, or in connection with there having occurred, an Event of Default or (B) is required by the terms of the Operative Documents

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or is executed in connection with any amendment to the Operative Documents required by law;

(xvi) Taxes in the nature of intangibles, stamp, documentary or similar Taxes;

(xvii) Taxes imposed on or with respect to or payable by a Tax Indemnitee or any Affiliate because such Tax Indemnitee or any Affiliate thereof is not a United States person within the meaning of Section 7701(a)(30) of the Code; and

(xviii) Any tax imposed by its express terms in lieu of or in substitution for a Tax not subject to indemnity pursuant to the provisions of Section 13.5 of the Participation Agreement.

Notwithstanding the foregoing, the exclusions from the definition of Impositions set forth in clauses (i), (ii), (v), (vii), (xii), (xvi) and (xviii) (to the extent that any such tax is imposed by its express terms in lieu of or in substitution for a Tax set forth in clauses (i), (ii), (v), (vii), (xii) and (xvi)) above shall not apply (but the other exclusions shall apply) to any Taxes or any increase in Taxes imposed on a Tax Indemnitee net of any decrease in taxes realized by such Tax Indemnitee, to the extent that such tax increase or decrease would not have occurred if on each Funding Date the Lessor had advanced funds to the Lessee in the form of a loan secured by the applicable Property in an amount equal to the applicable Property Improvement Cost funded on such Funding Date, with debt service for such loan equal to the Basic Rent payable on each Rent Payment Date and a principal balance at the maturity of such loan in an amount equal to the then outstanding amount of the Advances at the end of the term of the Master Lease.

For purposes of determining the exclusion from the definition of Impositions set forth in clause (i), an income tax shall include, without limitation, any tax imposed under the United States Internal Revenue Code, as well as any tax that could qualify as an "income tax" under United States Treasury Regulation Section 1.901-2.

"Improvements" means all buildings, structures, Fixtures, Equipment, and other improvements of every kind existing at any time and from time to time and constructed pursuant to the Construction Agency Agreement, or otherwise purchased, with amounts advanced by the Participants pursuant to the Participation Agreement, on or under any Land, or any parcel of Land to be acquired pursuant to the terms of the Operative

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Documents, together with any and all appurtenances to such buildings, structures or improvements, including sidewalks, utility pipes, conduits and lines, parking areas and roadways, and including all Modifications and other additions to or changes in the Improvements at any time.

"Improvements Budget" means, with respect to each Property, the budget for the Construction of Improvements on such Property as agreed to by the Lessor and the Lessee on a per square foot basis.

"Indebtedness" means, of any Person at any date, (i) all indebtedness of such Person for borrowed money or for the deferred purchase price of property or services (other than current trade liabilities incurred in the ordinary course of business and payable in accordance with customary practices), (ii) any other indebtedness of such Person which is evidenced by a note, bond, debenture or similar instrument, (iii) all obligations of such Person as lessee under Capital Leases, (iv) all obligations of such Person in respect of acceptances issued or created for the account of such Person, (v) all liabilities secured by any Lien on any property owned by such Person even though such Person has not assumed or otherwise become liable for the payment thereof, (vi) all obligations of such Person under conditional sale or other title retention agreements relating to property purchased by such Person (other than customary reservations or retentions of title under agreements with suppliers entered into in the ordinary course of business), (vii) all obligations of such Person under take-or-pay or similar arrangements or under commodities agreements, (viii) all obligations of such Person in respect of any guaranty, reimbursement or similar obligation, (ix) all obligations of such Person in respect of interest rate protection agreements, foreign currency exchange agreements, commodity purchase or option agreements or other interest or exchange rate or commodity price hedging agreements, and (x) all contingent or non-contingent obligations of such Person in respect of letters of credit issued or bankers' acceptances created for the account of such Person.

"Indemnitee" means each of the Lessor, the Lender, their respective Affiliates and their respective successors, assigns, directors, shareholders, partners, officers, employees and agents.

"Insolvency" means, with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

"Insolvent" means pertaining to a condition of Insolvency.

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"Insurance Requirements" means all terms and conditions of any insurance policy either required by the Master Lease to be maintained by the Lessee or required by the Construction Agency Agreement to be maintained by the Construction Agent, and all requirements of the issuer of any such policy.

"Interest Period" means,

(a) with respect to any Loan or Lessor Amount advanced during the Commitment Period;

(i) initially, the period commencing on the Funding Date with respect to such Loan or Lessor Amount and ending on the day preceding the Payment Set Date (determined in accordance with clause (i) of the definition thereof); and

(ii) thereafter, each period commencing on the day after the last day of the preceding Interest Period and ending on the day preceding the next succeeding Payment Set Date (determined in accordance with clause (ii) of the definition thereof); provided, however, that the Interest Period applicable to Advances made (x) on the twentieth day of the month following the commencement of such period shall end on the day preceding the twentieth day of the month following two months thereafter and (y) on the twentieth day of the month following two months after the commencement of such period shall end on the day preceding the twentieth day of the month following one month thereafter and

(b) with respect to any Loan or Lessor Amount advanced outstanding during the Basic Lease Term:

(i) initially, the period commencing on the day the Lease Term begins and ending on the day preceding the first twentieth day of the month of the Lease Term; and

(ii) thereafter, each period commencing on the day after the last day of the preceding Interest Period applicable to such Loan or Lessor Amount and ending on the day preceding the date which is three months thereafter.

The foregoing provisions relating to Interest Periods are subject to the following:

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(x) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Business Day;

(y) any Interest Period that would otherwise extend beyond the Commitment Period with respect to any Property shall end on the last day of the Commitment Period with respect to such Property; and

(z) any Interest Period that would otherwise extend beyond the Maturity Date shall end on the Maturity Date.

"Land" means each parcel of real property described on Schedule I to any Lease Supplement, and includes all Appurtenant Rights attached thereto.

"Land Acquisition Cost" means the amount of the Advance made available to the Construction Agent for the purpose of acquiring any portion of the Land, developing the infrastructure related to the Land, including without limitation, the filing and processing of applications for government or regulatory permits, authorizations, entitlements or approvals and payment of fees by any Governmental Authority and paying the Transaction Expenses relating to such funding and acquisition, as such amount is set forth in the Funding Request relating to the acquisition of such Property.

"Lease" means, collectively, the Master Lease and each Lease Supplement.

"Lease Balance" means, as of any date of determination, an amount equal to the sum of the Loan Balance and the Lessor Balance and all other amounts owing by the Lessee under the Operative Documents (including without limitation, accrued and unpaid Rent and Supplemental Rent, if any).

"Lease Balance (Improvements)" means the aggregate Lease Balance for the Improvements only.

"Lease Balance (Land)" means the aggregate Lease Balance for the Land only.

"Lease Default" means any event or condition which, with the lapse of time or the giving of notice, or both, would constitute a Lease Event of Default.

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"Lease Event of Default" means a "Lease Event of Default" as defined in Section 16.1 of the Master Lease.

"Lease Supplement" means each Lease Supplement, executed by the Lessee, dated as of an Acquisition Date or a Funding Date and covering either (i) the Land identified on Schedule I thereto or (ii) the Improvements on the Land (but not such Land itself) identified on Schedule I thereto, substantially in the form of Exhibit A-1 to the Master Lease (in the case of Land) or substantially in the form of Exhibit A-2 to the Master Lease (in the case of Improvements), in each case as the same may be amended, supplemented, amended and restated or otherwise modified from time to time.

"Lease Term" means the period commencing on the first day of the Basic Lease Term and ending on the Expiration Date.

"Lender" means Union Bank of Switzerland, acting through its New York Branch, together with its successors and assigns permitted pursuant to Section 12.1 of the Participation Agreement.

"Lender Basic Rent" means, as determined as of any Basic Rent Payment Date, the interest due on the Loans, determined in accordance with Section 2.4 of the Loan Agreement and excluding any interest at the applicable Overdue Rate on any installment of Basic Rent not paid when due and any fine, penalty, interest or cost assessed or added under any agreement with a third party for nonpayment or late payment of Basic Rent.

"Lessee" means Cisco Systems, Inc., a California corporation, as lessee under the Lease, and its successors and assigns expressly permitted under the Master Lease.

"Lessee Mortgage" is defined in the ninth recital to the Participation Agreement, the provisions for which shall be contained in each Lease Supplement.

"Lessor" means UBS Mortgage Finance Inc., a New York corporation, together with its successors and assigns permitted pursuant to Section 12.1 of the Participation Agreement.

"Lessor Amount" is defined at Section 3.2 of the Participation Agreement.

"Lessor Balance" means, as of any date of determination, an amount equal to the sum of the outstanding Lessor Amounts together with all accrued and unpaid Yield thereon.

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"Lessor Basic Rent" means the amount of accrued Yield due on the Lessor Amounts, determined in accordance with Section 4.1 of the Participation Agreement as of any Basic Rent Payment Date and excluding any interest at the applicable Overdue Rate on any installment of Lessor Basic Rent not paid when due and any fine, penalty, interest or cost assessed or added under any agreement with a third party for nonpayment or late payment of Lessor Basic Rent.

"Lessor Commitment" means the Commitment of the Lessor in the amount set forth on Schedule I of the Participation Agreement, as such Schedule may be amended, supplemented, amended and restated or otherwise modified from time to time.

"Lessor Financing Statements" means UCC financing statements appropriately completed and executed for filing in the applicable jurisdiction in order to protect the Lessor's interest under the Master Lease and the Lease Supplements to the extent the Master Lease and Lease Supplements are security agreements.

"Lessor Lien" means any Lien, true lease or sublease or disposition of title arising as a result of (a) any claim against any Participant, whether or not resulting from the transactions contemplated by the Operative Documents, (b) any act or omission of any Participant which is not required or permitted by the Operative Documents or is in violation of any of the terms of the Operative Documents, (c) any claim against any Participant, with respect to Taxes or Transaction Expenses against which the Lessee is not required to indemnify any Participant, in its individual capacity, pursuant to Article IX of the Participation Agreement or (d) any claim against the Lessor arising out of any transfer by the Lessor of all or any portion of the interest of the Lessor in the Properties or the Operative Documents other than the transfer of title to or possession of the Properties by the Lessor pursuant to and in accordance with the Master Lease, the Loan Agreement or the Participation Agreement or pursuant to the exercise of the remedies set forth in Section 16.2 of the Master Lease.

"Lessor Margin" means, with respect to the Lessor Amounts, 0.20% per annum and in the event the Lessee has suspended the Lender's right to enter into repurchase agreements for the Additional Collateral pursuant to Section 2.8 of the Pledge Agreement, the applicable margin during the period of suspension is 0.25% per annum.

"Lessor Mortgage" means, with respect to any Property, the Lease Supplement for such Property and any and all other security instruments in appropriate recordable form in each relevant

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jurisdiction sufficient to grant to the Lessor a first priority Lien on the Lessee's interest in such Property.

"Leverage Ratio" means the following (as determined as of the most recent fiscal year end):

Total Debt + [8 x minimum annual rent expense for next year] - Cash - Short Term Investments (Consolidated Net Income + Interest Expense + Taxes + Depreciation + Amortization + Write Off of Goodwill related to acquisitions)

"Lien" means any mortgage, deed of trust, pledge, security interest, encumbrance, lien, easement, servitude or charge of any kind, including, without limitation, any irrevocable license, conditional sale or other title retention agreement, any lease in the nature thereof, or any other right of or arrangement with any creditor to have its claim satisfied out of any specified property or asset with the proceeds therefrom prior to the satisfaction of the claims of the general creditors of the owner thereof, whether or not filed or recorded, or the filing of, or agreement to execute as "debtor", any financing or continuation statement under the Uniform Commercial Code of any jurisdiction or any federal, state or local lien imposed pursuant to any Environmental Law.

"Loan Agreement" means the Loan Agreement, dated as of December 27, 1996, between the Lessor, as borrower thereunder and the Lender, as the same may be amended, supplemented, amended and restated or otherwise modified from time to time.

"Loan Agreement Default" means any event, act or condition which with notice or lapse of time, or both, would constitute a Loan Agreement Event of Default.

"Loan Agreement Event of Default" is defined in Section 5 of the Loan Agreement.

"Loan Balance" means, as of any date of determination, an amount equal to the sum of the outstanding Loans together with all accrued and unpaid interest thereon pursuant to the Loan Agreement.

"Loan Commitment" means the Commitment of the Lender in the amount(s) set forth on Schedule I to the Participation Agreement, as such Schedule may be amended, supplemented, amended and restated or otherwise modified from time to time.

"Loan Documents" means the Loan Agreement and the Notes.

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"Loan Margin" means, with respect to the Tranche A and Tranche B Loans respectively, 0.10% per annum and 0.20% per annum, and in the event the Lessee has suspended the Lender's right to enter into repurchase agreements for the Additional Collateral pursuant to Section 2.8 of the Pledge Agreement, the applicable margin during the period of suspension is 0.15% per annum for Tranche A Loans and 0.25% per annum for Tranche B Loans.

"Loans" is defined in Section 2.1 of the Loan Agreement.

"London Interbank Offered Rate" means, as applicable to any Eurodollar Loan, for an Interest Period of three (3) months, the rate per annum determined by the Lender on the basis of the offered rate for deposits in Dollars of amounts equal or comparable to the principal amount of such Eurodollar Loan offered for a period comparable to such Interest Period, which rates appear on the Reuters Screen LIBO Page as of 11:00 a.m., London time, two (2) Business Days prior to the first day of each such Interest Period, provided that (i) if more than one such offered rate appears on the Reuters Screen LIBO Page, the "London Interbank Offered Rate" will be the arithmetic average (rounded upwards, if necessary, to the next higher 1/100th of 1%) of such offered rates; and (ii) if no such offered rates appear on such page, the "London Interbank Offered Rate" for such Interest Period will be the rate per annum quoted by the Lender's London Branch, two (2) Business Days prior to the first day of each such Interest Period, for deposits in Dollars offered to leading banks for a period comparable to such Interest Period in an amount comparable to the principal amount of such Eurodollar Loan; provided, that in the event this rate is unavailable for an Interest Period of three months, an Interest Period based on a combination of one or two months interest periods shall be used.

"Marketing Period" means the period commencing on the date six months prior to the Expiration Date and ending on the Expiration Date.

"Master Lease" means the Master Lease, dated as of December 27, 1996, between the Lessor and the Lessee, as the same may be amended, supplemented, amended and restated or otherwise modified from time to time.

"Material" and "Materially" mean material to (i) the ability of a Person to perform its obligations under the Operative Documents to which it is a party, or (ii) the value or condition of any Property.

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"Material Adverse Effect" means a material adverse effect on (i) the business, financial position or results of operations of the Lessee and its Subsidiaries taken as a whole, (ii) the ability of the Lessee to perform any material obligation under the Operative Documents or (iii) any of the rights and remedies of the Lessor and/or the Lender under any of the Operative Documents.

"Maturity Date" means with respect to the Loans and the Lessor Amounts, the seventh anniversary of the Documentation Date, unless such Maturity Date is extended pursuant to Section 2.7 of the Loan Agreement and Section 11.2 of the Participation Agreement, in which case, the "Maturity Date" shall mean the tenth year anniversary of the Documentation Date.

"Maximum Commitment Amount" means an amount equal to \$250,000,000.00.

"Modifications" is defined in Section 10.1 of the Master Lease.

"Moody's" means Moody's Investors Service, Inc. or any successor or assignee of the business of such company in the business of rating securities.

"Multiemployer Plan" means at any time an employee pension benefit plan within the meaning of Section 401(a)(3) of ERISA to which any member of the ERISA Group is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions, including for these purposes any Person which ceased to be a member of the ERISA Group during such five year period.

"Net Proceeds" means all amounts received by the Lessor in connection with any Casualty or Condemnation or any sale of the Property pursuant to the Lessor's exercise of remedies under Section 16.2 of the Master Lease or the Lessee's exercise of the Remarketing Option under Article XX of the Master Lease, and all interest earned thereon, less any Impositions arising in connection with such amounts, if any, and less the expense of claiming and collecting such amounts, including all costs and expenses in connection therewith for which the Lessor or any Participant is entitled to be reimbursed pursuant to the Lease.

"Notes" is defined in Section 2.2 of the Loan Agreement.

"Obligations" means all obligations (monetary or otherwise) of the Lessee arising under or in connection with any of the Operative Documents.

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"Operative Documents" means the following:

- (a) the Participation Agreement;
- (b) the Master Lease;
- (c) each Lease Supplement;
- (d) the Loan Agreement;
- (e) each Note;
- (f) the Assignment of Lease and Rent;
- (g) each Deed;
- (h) the Pledge Agreement;
- (i) the Lessor Financing Statements;
- (j) the Construction Agency Agreement;
- (k) the Construction Agency Agreement Assignment;
- (l) the Construction Documents Assignment;
- (m) each Construction Agency Agreement Supplement; and
- (n) the Purchase and Sale Agreement Assignment.

Operative Documents amended, modified or supplemented without Lessee's prior written consent shall, to the extent of such amendment, modification or supplement, not constitute Operative Documents for purposes of Lessee's liability or obligations under any of the Operative Documents.

"Overdue Rate" means, with respect to any Loan or Lessor Amount, the Base Rate or the Adjusted Eurodollar Rate then in effect for such Loan or Lessor Amount, as the case may be, plus two percent (2%), or the highest rate permitted by Applicable Law (if any), whichever is less. In the event that the Overdue Rate collected by any Participant is in violation of any usury or similar law, then the Overdue Rate shall be reduced to the extent necessary to cause the Overdue Rate to comply with any usury or similar law.

"Participants" means, collectively, the Lender and the Lessor, and their respective successors and assigns.

"Participation Agreement" means the Participation Agreement, dated as of December 27, 1996, among the Lessee, as Lessee and as Construction Agent, the Lessor and the Lender, as the same may be amended, supplemented, amended and restated or otherwise modified from time to time.

"Participant Balance" means, with respect to any Participant as of any date of determination: (i) with respect to the Lender, an amount equal to the aggregate outstanding Loan of the Lender, together with all accrued and unpaid interest thereon or (ii) with respect to the Lessor, an amount equal to the aggregate outstanding Lessor Amounts of the Lessor, together with all amounts of accrued and unpaid Yield thereon.

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"Payment Set Date" means (i) the first twentieth day of the month immediately following the initial Advance and (ii) thereafter, the twentieth day of the month following three months after the date determined under clause (i) and each succeeding twentieth day of the third month thereafter.

"PBGC" means the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA, and any successor thereto.

"Permitted Property Liens" means, with respect to any Property, any of the following:

- (i) the respective rights and interests of the parties to the Operative Documents as provided in the Operative Documents;
- (ii) the rights of any sublessee under a sublease permitted by the terms of the Master Lease;
- (iii) Liens for Taxes that either are not yet due or are being contested in accordance with the provisions of Section 12.1 of the Master Lease;
- (iv) Liens arising by operation of law, materialmen's, mechanics', workers', repairmen's, employees', carriers', warehousemen's and other like Liens relating to the construction of the Improvements or in connection with any Modifications or arising in the ordinary course of business for amounts that either are not more than 60 days past due or are being diligently contested in good faith by appropriate proceedings, so long as such proceedings satisfy the conditions for the continuation of proceedings to contest Taxes set forth in Section 12.1 of the Master Lease;
- (v) Liens of any of the types referred to in clause (iv) above that have been bonded for not less than the full amount in dispute (or as to which other security arrangements satisfactory to the Lessor have been made), which bonding (or arrangements) shall comply with applicable Requirements of Law, and has effectively stayed any execution or enforcement of such Liens;
- (vi) Liens arising out of judgments or awards with respect to which appeals or other proceedings for review are being prosecuted in good faith and for the payment of which adequate reserves have been provided as required by GAAP or other appropriate provisions have been made, so long as such proceedings have the effect of staying the execution of such

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judgments or awards and satisfy the conditions for the continuation of proceedings to contest set forth in Section 12.1 of the Master Lease;

(vii) easements, rights of way and other encumbrances on title to real property pursuant to Section 11.2 of the Master Lease;

(viii) Lessor Liens; provided that the existence of such liens shall not be deemed Lessee's authorization or recognition of such liens;

(ix) Liens created by the Lessee with the consent of the Lessor; and

(x) Liens described on the title insurance policy delivered with respect to such Property pursuant to Section 6.1(p) of the Participation Agreement other than Liens described in clause (iv) or (vi) above that are not removed within forty (40) days of their origination.

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Authority or any other entity.

"Plan" means at any time an employee pension benefit plan (other than a Multiemployer Plan) which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code and either (i) is maintained, or contributed to, by any member of the ERISA Group for employees of any member of the ERISA Group or (ii) has at any time within the preceding five years been maintained, or contributed to, by any Person which was at such time a member of the ERISA Group for employees of any Person which was at such time a member of the ERISA Group.

"Plans and Specifications" means, with respect to each Property, the plans and specifications for the Construction thereof, as more particularly described in Schedule II to the Construction Agency Agreement Supplement applicable to such Property.

"Pledge Agreement" means the Pledge Agreement, dated as of December 27, 1996, made by the Lessee in favor of the Lender, as "Collateral Agent" thereunder, as the same may be amended, supplemented, amended and restated or otherwise modified from time to time.

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"Property" means each individual building to be constructed including the Lessor's interest in all Land, as owner in fee simple, related thereto or, in the case of Land on which no Improvements are to be constructed, each portion of the Land, constituting a separate legal parcel.

"Property Balance" means, with respect to any Property, the sum of (i) the Property Balance (Land) and (ii) the Property Balance (Improvements).

"Property Balance (Improvements)" means, with respect to any Property, an amount equal to the outstanding principal amount of the Loans and Lessor Amounts relating only to the Improvements in respect of such Property, and all accrued and unpaid interest and Yield thereon, and any Supplemental Rent related thereto.

"Property Balance (Land)" means, with respect to any Property, an amount equal to the outstanding principal amount of the Loans and Lessor Amounts relating only to the Land in respect of such Property, and all accrued and unpaid interest and Yield thereon, and any Supplemental Rent related thereto.

"Property Cost" means, with respect to any Property, the sum of the Land Acquisition Cost and the Property Improvement Costs for such Property and pro-rata portion of the Commitment Fees.

"Property Improvement Costs" means, with respect to any Property, the aggregate amount of Advances made to the Construction Agent for the purpose of paying Construction Costs and the Transaction Expenses relating to such funding and construction, as such amount is set forth in the Funding Request relating thereto.

"Purchase and Sale Agreement" is defined in the first recital to the Participation Agreement.

"Purchase and Sale Agreement Assignment" is defined in the second recital to the Participation Agreement.

"Purchase Notice" means an irrevocable written notice by the Lessee delivered to the Lessor pursuant to Section 18.1 of the Master Lease, notifying the Lessor of the Lessee's intention to exercise its option pursuant to such Section, and identifying the Property or Properties to be purchased in accordance therewith and the proposed purchase date therefor.

"Purchase Option" means the Lessee's option to purchase a Property in accordance with the provisions of Section 18.1 of the Master Lease.

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"Rating" means the respective rating or indication of each of the Rating Agency applicable to the long-term senior unsecured non-credit enhanced debt of the Lessee, as announced by the Rating Agency from time to time.

"Rating Agency" means S&P.

"RCRA" means the Resource Conservation and Recovery Act of 1976, as amended by the Solid and Hazardous Waste Amendments of 1984, 42 U.S.C. Section 6901 et seq., or as otherwise amended or modified or any successor statute thereto.

"Release" means any release, pumping, pouring, emptying, injecting, escaping, leaching, dumping, seepage, spill, leak, flow, discharge, disposal or emission of a Hazardous Material.

"Remarketing Option" is defined in Section 20.1 of the Master Lease.

"Rent" means, collectively, the Basic Rent and the Supplemental Rent, in each case payable under the Master Lease.

"Reorganization" means with respect to any Multiemployer Plan, the condition that such Plan is in reorganization within the meaning of such term as used in Section 4241 of ERISA.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the PBGC has by regulation waived the applicable notice requirement, or as to which the PBGC has announced a policy of not enforcing penalties for failure to satisfy applicable notice requirements.

"Repurchase Agreement" is defined in Section 2.8 of the Pledge Agreement.

"Required Modification" is defined in clause (i) of Section 10.1 of the Master Lease.

"Requirement of Law" means, as to any Person, (a) the partnership agreement, certificate of incorporation, bylaws or other organizational or governing documents of such Person, and (b) all statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of any Governmental Authority affecting any Property, the Improvements or the demolition, Construction, use or alteration thereof, whether now or hereafter enacted and in force, including any that require repairs, modifications or alterations in or to any Property or in any way limit the use and enjoyment thereof (including all building, zoning and fire codes and the Americans with Disabilities Act of

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1990, 42 U.S.C. Section 1201 et. seq. and any other similar Federal, state or local laws or ordinances and the regulations promulgated thereunder) and any that may relate to environmental requirements (including all Hazardous Materials Laws), and all permits, certificates of occupancy, licenses, authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instruments which are either of record or known to the Lessee affecting any Property, the Appurtenant Rights and any easements, licenses or other agreements entered into pursuant to Section 11.2 of the Master Lease.

"Responsible Officer" means as to the Lessee, any duly authorized officer thereof.

"Responsible Officer's Certificate" means a certificate signed by any Responsible Officer, which certificate shall certify as true and correct the subject matter being certified to in such certificate.

"S&P" means Standard & Poor's Ratings Group, a division of McGraw Hill, Inc., or any successor or assignee of the business of such division in the business of rating securities.

"Scheduled Payment Date" means the Payment Set Date.

"Seller" is defined in the first recital to the Participation Agreement.

"Shortfall Amount" means, as of the Expiration Date, an amount equal to (i) the Lease Balance, minus (ii) the Loan Balance received by the Lessor from the Lessee pursuant to Section 20.1(k) of the Master Lease, minus (iii) the aggregate amount of the highest, binding, written, unconditional, irrevocable offer to purchase each Property obtained by the Lessee pursuant to Section 20.1(f) of the Master Lease; provided, however, that if the sale of the Properties to the Person submitting such offer is not consummated on or prior to the Expiration Date, then the term "Shortfall Amount" shall mean an amount equal to (i) the Lease Balance, minus (ii) the Loan Balance received by the Lessor pursuant to Section 20.1(k) of the Master Lease.

"Significant Condemnation" means (a) a Condemnation that involves a taking of the Lessor's entire title to the related Land, or (b) a Condemnation that in the reasonable, good faith judgment of the Lender and the Lessor (i) renders the related Property unsuitable for continued use as property of the type of such Property immediately prior to such Condemnation, or (b) is

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so substantial in nature that restoration of the related property to substantially its condition as it existed immediately prior to such Condemnation would be impracticable or impossible.

"Significant Subsidiary" means any Subsidiary of the Lessee the assets of which represent 5% or more of the total assets of the Lessee and the Subsidiaries on a consolidated basis.

"Single Employer Plan" means any Plan which is not a Multiemployer Plan.

"Solvent" means with respect to any Person on a particular date, that on such date (i) the fair value of the property of such Person (including, without limitation, its Consolidated Subsidiaries) is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such Person (including, without limitation, its Consolidated Subsidiaries), (ii) the present fair saleable value of the assets of such Person (including, without limitation, its Consolidated Subsidiaries) is not less than the amount that will be required to pay the probable liability of such Person (including, without limitation, its Consolidated Subsidiaries) on its debts as they become absolute and matured, (iii) such Person is able to realize upon its assets and pay its debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business, (iv) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature, and (v) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property (including, without limitation, the property of its Consolidated Subsidiaries and other Subsidiaries) would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is engaged. In computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed at the amount which, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability taking into account any subrogation and contribution rights.

"Subsidiary" means, as to any Person, a corporation, partnership or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the

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management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a "Subsidiary" or to "Subsidiaries" in the Operative Documents shall refer to a Subsidiary or Subsidiaries of the Lessee.

"Supplemental Rent" means all amounts, liabilities and obligations (other than Basic Rent) which the Lessee assumes or agrees to pay to the Lessor or any other Person under the Master Lease, or under any of the other Operative Documents, including, without limitation, Fees, Break Costs, the Loan Balance, the Shortfall Amount, amounts due pursuant to Section 13.2 of the Participation Agreement and payments pursuant to Sections 15.2 of the Master Lease and Articles XVIII and XX of the Master Lease.

"Tax Indemnitee" means the Lender, the Lessor, their respective Affiliates and their respective successors, assigns, directors, shareholders, partners, officers, employees and agents.

"Taxes" is defined in the definition of Impositions.

"Termination Date" is defined in Section 15.2 of the Master Lease.

"Termination Notice" is defined in Section 15.1 of the Master Lease.

"Tranche A Loan" is defined in Section 2.1 of the Loan Agreement.

"Tranche A Loan Balance" is the Loan Balance with respect to the Tranche A Loans.

"Tranche A Loan Commitment" is the Tranche A Commitment specified in Schedule I to the Participation Agreement.

"Tranche B Loan" is defined in Section 2.1 of the Loan Agreement.

"Tranche B Loan Balance" is the Loan Balance with respect to the Tranche B Loans.

"Tranche B Loan Commitment" is the Tranche B Commitment specified in Schedule I to the Participation Agreement.

"Transaction Expenses" means all costs, expenses and Impositions incurred in connection with the preparation, execution and delivery of the Operative Documents and the

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transactions contemplated by the Operative Documents including without limitation:

(a) the reasonable fees, out-of-pocket expenses and disbursements of Mayer, Brown & Platt, special counsel for the Lessor and the Lender, and such other reasonable fees, expenses and disbursements of counsel for the Lessee, in negotiating the terms of the Operative Documents and the other transaction documents, preparing for the closing under, and rendering opinions in connection with, such transactions and in rendering other services customary for counsel representing parties to transactions of the types involved in the transactions contemplated by the Operative Documents;

(b) the reasonable fees, out-of-pocket expenses and disbursements of any law firm or other external counsel of the Lessor, the Lessee and the Lender in connection with (1) any amendment, supplement, waiver or consent with respect to any Operative Documents requested or approved by the Lessee and (2) any enforcement of any rights or remedies against the Lessee in respect of the Operative Documents;

(c) any and all Taxes and fees incurred in recording, registering or filing any Operative Document or any other transaction document, any deed, declaration, mortgage, security agreement, notice or financing statement with any public office, registry or governmental agency in connection with the transactions contemplated by the Operative Documents; and

(d) any brokerage commissions paid or payable by the Lessee.

"Uniform Commercial Code" and "UCC" means the Uniform Commercial Code as in effect in any applicable jurisdiction.

"Yield" is defined in Section 4.1(a) of the Participation Agreement.

"Yield Rate" means, at the option of the Lessee, (i) the Base Rate, or (ii) the sum of the Adjusted Eurodollar Rate plus the Lessor Margin, as the case may be. The Adjusted Eurodollar Rate may not be selected by the Lessee for any period of less than one month without the prior written consent of the Lender.

EXHIBIT 10.53

EXECUTION COPY

\$500,000,000

CREDIT AGREEMENT

dated as of

July 2, 1997

among

Cisco Systems, Inc.,

The Lenders Listed Herein,

Citicorp USA, Inc., as Administrative Agent,

Morgan Guaranty Trust Company of New York, as Documentation Agent

and

Bank of America National Trust and Savings Association The Chase Manhattan Bank, as Co-Agents

Citicorp Securities, Inc. J.P. Morgan Securities Inc. Arrangers

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AGREEMENT dated as of July 2, 1997 among CISCO SYSTEMS, INC., the LENDERS listed on the signature pages hereof, CITICORP USA, INC., as Administrative Agent, MORGAN GUARANTY TRUST COMPANY OF NEW YORK, as Documentation Agent and BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION and THE CHASE MANHATTAN BANK, as Co-Agents.

WHEREAS, the Borrower and certain Lenders are parties to the Credit Agreement dated as of May 22, 1995 (the "Existing Agreement"); and

WHEREAS, the Borrower wishes to replace the credit facility under the Existing Agreement with a new credit facility hereunder; and

WHEREAS, when all the conditions specified in Section 9.11 have been satisfied, the Existing Agreement will be automatically terminated and the loans outstanding thereunder (if any) will be repaid or refinanced hereunder;

NOW, THEREFORE, The parties hereto agree as follows:

ARTICLE 1

Definitions

Section 1.01. Definitions. The following terms, as used herein, have the following meanings:

"ABSOLUTE RATE AUCTION" means a solicitation of Money Market Quotes setting forth Money Market Absolute Rates pursuant to Section 2.03 .

"ADDITIONAL LENDER" has the meaning set forth in Section 2.15.

"ADMINISTRATIVE AGENT" means Citicorp USA, Inc., in its capacity as Administrative Agent for the Lenders hereunder, and its successors in such capacity.

"ADMINISTRATIVE QUESTIONNAIRE" means, with respect to each Lender, an administrative questionnaire in the form prepared by the Administrative Agent and submitted to the Administrative Agent (with a copy to the Borrower) duly completed by such Lender.

"AFFILIATE" means, with respect to any Person, (i) any Person that directly, or indirectly through one or more intermediaries, controls such Person (a "Controlling Person") or (ii) any Person (other than such Person or any of its Subsidiaries) which is controlled by or is under common control with a Controlling Person. As used herein, the term "control" means possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"AGENT" means the Administrative Agent or the Documentation Agent, and "Agents" both of them.

"AGENT-RELATED PERSONS" means either Agent and any successor agent arising under Section 7.09, together with their respective Affiliates (including the Arrangers), and the officers, directors, employees, agents and attorneys-in-fact of such Persons and affiliates.

"APPLICABLE LENDING OFFICE" means, with respect to any Lender, (i) in the case of its Base Rate Loans, its Domestic Lending Office, (ii) in the case of its Euro-Dollar Loans, its Euro-Dollar Lending Office and (iii) in the case of its Money Market Loans, its Money Market Lending Office.

"ARRANGERS" means Citicorp Securities, Inc. and J.P. Morgan Securities Inc.

"ATTORNEY COSTS" means and includes all fees and disbursements of any law firm or other external counsel, the allocated cost of internal legal services and all disbursements of internal counsel.

"BASE RATE" means, for any day, a rate per annum equal to the higher of (i) the Reference Rate for such day and (ii) the sum of 1/2 of 1% plus the Federal Funds Rate for such day.

"BASE RATE LOAN" means a Committed Loan which bears interest at the Base Rate pursuant to the applicable Notice of Committed Borrowing or Notice of Interest Rate Election or the provisions of Section 2.07(a) or Article 8.

"BENEFIT ARRANGEMENT" means at any time an employee benefit plan within the meaning of Section 3(3) of ERISA which is not a Plan or a Multiemployer Plan and which is maintained or otherwise contributed to by any member of the ERISA Group.

"BORROWER" means Cisco Systems, Inc., a California corporation, and its successors.

"BORROWER'S 1996 FORM 10-K" means the Borrower's annual report on Form 10-K for July 28, 1996, as filed with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

"BORROWER'S LATEST FORM 10-Q" means the Borrower's quarterly report on Form 10-Q for the quarter ended January 25, 1997, as filed with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

"BORROWING" has the meaning set forth in Section 1.03.

"CLOSING DATE" means the date (which must occur prior to July 30, 1997) on or after the Effective Date on which the Documentation Agent shall have received the documents specified in or pursuant to Section 3.01.

"COMMITMENT" means (i) with respect to each Lender listed on the signature pages hereof, the amount set forth opposite the name of such Lender on the signature pages hereof and (ii) with respect to each Additional Lender or Eligible Assignee which becomes a Lender pursuant to Section 2.15 or 9.07(c), the amount of the Commitment thereby assumed by it, in each case as such amount may be changed from time to time pursuant to Section 2.09, 2.15 or 9.07(c).

"COMMITTED LOAN" means a loan made by a Lender pursuant to Section 2.01, provided that, if any such loan or loans (or portions thereof) are combined or subdivided pursuant to a Notice of Interest Rate Election, the term Committed Loan shall refer to the combined principal amount resulting from such combination or to each of the separate principal amounts resulting from such subdivision, as the case may be.

"CONSOLIDATED EBIT" means, for any period, Consolidated Net Income for such period plus, to the extent deducted in determining Consolidated Net Income for such period, the aggregate amount of Consolidated Interest Expense and income tax expense for such period.

"CONSOLIDATED INTEREST EXPENSE" means, for any period, the interest expense of the Borrower and its Consolidated Subsidiaries determined on a consolidated basis for such period.

"CONSOLIDATED NET INCOME" means, for any fiscal period, the net income of the Borrower and its Consolidated Subsidiaries, determined on a consolidated basis for such period.

"CONSOLIDATED SUBSIDIARY" means at any date any Subsidiary or other entity the accounts of which would be consolidated with those of the Borrower in its consolidated financial statements if such statements were prepared as of such date. "Consolidated Tangible Net Worth" means at any date the consolidated stockholders' equity of the Borrower and its Consolidated Subsidiaries less their consolidated Intangible Assets, all determined as of such date. For purposes of this definition, "Intangible Assets" means the amount (to the extent reflected in determining such consolidated stockholders' equity) of (i) all write-ups (other than write-ups resulting from foreign currency translations and write-ups of assets of a going concern business made within twelve months after the acquisition of such business) subsequent to January 28, 1997 in the book value of any asset owned by the Borrower or a Consolidated Subsidiary, (ii) except for such as constitute marketable securities under generally accepted accounting principles, all investments in unconsolidated Subsidiaries and all equity investments in Persons which are not Subsidiaries and (iii) all unamortized debt discount and expense, unamortized deferred charges, goodwill, patents, trademarks, service marks, trade names, anticipated future benefit of tax loss carry-forwards, copyrights, organization or developmental expenses and other intangible assets.

"DEBT" of any Person means at any date, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable or accrued liabilities in respect of accrued expenses arising in the ordinary course of business, (iv) all obligations of such Person as lessee which are capitalized in accordance with generally accepted accounting principles, (v) all non-contingent obligations (and, for purposes of Section 5.09 and the definitions of Material Debt and Material Financial Obligations, all contingent obligations) of such Person to reimburse any bank or other Person in respect of amounts paid under a letter of credit or similar instrument, (vi) any of the foregoing secured by a Lien on any asset of such Person, whether or not such Debt is otherwise an obligation of such Person and (vii) any of the foregoing of others Guaranteed by such Person; provided that Synthetic Leases are not Debt for purposes hereof.

"DEFAULT" means any condition or event which constitutes an Event of Default or which with the giving of notice or lapse of time or both would, unless cured or waived, become an Event of Default.

"DERIVATIVES OBLIGATIONS" of any Person means all obligations of such Person in respect of any rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of the foregoing transactions) or any combination of the foregoing transactions.

"DOCUMENTATION AGENT" means Morgan Guaranty Trust Company of New York in its capacity as documentation agent for the Lenders hereunder, and its successors in such capacity.

"DOMESTIC BUSINESS DAY" means any day except a Saturday, Sunday or other day on which commercial banks in New York City are authorized by law to close.

"DOMESTIC LENDING OFFICE" means, as to each Lender, its office located at its address set forth in its Administrative Questionnaire (or identified in its Administrative Questionnaire as its Domestic Lending Office) or such other office as such Lender may hereafter designate as its Domestic Lending Office by notice to the Borrower and the Administrative Agent.

"EFFECTIVE DATE" means the date this Agreement becomes effective in accordance with Section 9.10.

"ELIGIBLE ASSIGNEE" means (i) a Lender; (ii) an Affiliate of a Lender; (iii) a commercial bank organized under the laws of the United States or any State thereof and having a combined capital and surplus of at least \$1,000,000,000; (iv) a savings and loan association or savings bank organized under the laws of the United States or any State thereof and having a combined capital and surplus of at least \$1,000,000,000; (v) a commercial bank organized under the laws of any other country that is

a member of the Organization for Economic Cooperation and Development or has concluded a special lending arrangement with the International Monetary Fund associated with its General Arrangements to Borrow, or a political subdivision of any such country, and having a combined capital and surplus of at least \$1,000,000,000, as long as such bank is acting through a branch or agency located in the United States; (vi) the central bank of any country that is a member of the Organization for Economic Cooperation and Development; (vii) a finance company, insurance company or other financial institution or fund (whether a corporation, partnership, trust or other entity) that is engaged in making, purchasing or otherwise investing in commercial loans in the ordinary course of business and having a combined capital and surplus of at least \$1,000,000,000 and (viii) any other Person approved by the Agent and the Borrower, such approval not to be unreasonably withheld or delayed; provided however, that neither the Borrower nor an Affiliate or Subsidiary of the Borrower shall qualify as an Eligible Assignee.

"ENVIRONMENTAL LAWS" means any and all federal, state, local and foreign statutes, laws, judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, plans, injunctions, permits, concessions, grants, franchises, licenses, agreements and other governmental restrictions relating to the environment, the effect of the environment on human health or to emissions, discharges or releases of pollutants, contaminants, Hazardous Substances or wastes into the environment including, without limitation, ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, Hazardous Substances or wastes or the clean-up or other remediation thereof.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, or any successor statute.

"ERISA GROUP" means the Borrower, any Subsidiary and all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with the Borrower or any Subsidiary, are treated as a single employer under Section 414 of the Internal Revenue Code.

"EURO-DOLLAR BUSINESS DAY" means any Domestic Business Day on which commercial banks are open for international business (including dealings in dollar deposits) in London, England.

"EURO-DOLLAR LENDING OFFICE" means, as to each Lender, its office, branch or affiliate located at its address set forth in its Administrative Questionnaire (or identified in its Administrative Questionnaire as its Euro-Dollar Lending Office) or such other office, branch or affiliate of such Lender as it may hereafter designate as its Euro-Dollar Lending Office by notice to the Borrower and the Administrative Agent.

"EURO-DOLLAR LOAN" means a Committed Loan which bears interest at a Euro-Dollar Rate pursuant to the applicable Notice of Committed Borrowing or Notice of Interest Rate Election.

"EURO-DOLLAR MARGIN" means a rate per annum determined in accordance with the Pricing Schedule.

"EURO-DOLLAR RATE" means a rate of interest determined pursuant to Section 2.07(b) on the basis of a London Interbank Offered Rate.

"EURO-DOLLAR RESERVE PERCENTAGE" has the meaning set forth in Section 2.16.

"EVENT OF DEFAULT" has the meaning set forth in Section 6.01.

"EXISTING AGREEMENT" has the meaning set forth in the recitals hereto.

"FACILITY FEE RATE" has the meaning set forth in Section 2.08.

"FEDERAL FUNDS RATE" means, for any day, the rate per annum (rounded upward, if necessary, to the nearest 1/100th of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Domestic Business Day next succeeding such day, provided that (i) if such day is not a Domestic Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Domestic Business Day as so published on the next succeeding Domestic Business Day, and (ii) if no such rate is so published on such next succeeding Domestic Business Day, the Federal Funds Rate for such day shall be the average rate quoted to Citibank, N.A. on such day on such transactions as determined by the Administrative Agent.

"FIXED RATE LOANS" means Euro-Dollar Loans or Money Market Loans (excluding Money Market LIBOR Loans bearing interest at the Base Rate pursuant to Section 8.01) or any combination of the foregoing.

"GOVERNMENTAL AUTHORITY" means any nation or government, any state or other political subdivision thereof, any central bank (or similar monetary or regulatory authority) thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, and any corporation or other entity owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

"GROUP OF LOANS" means, at any time, a group of Loans consisting of (i) all Committed Loans which are Base Rate Loans at such time or (ii) all Euro- Dollar Loans having the same Interest Period at such time, provided that, if a Committed Loan of any particular Lender is converted to or made as a Base Rate Loan pursuant to Article 8, such Loan shall be included in the same Group or Groups of Loans from time to time as it would have been in if it had not been so converted or made.

"GUARANTEE" by any Person means any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Debt of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt (whether arising by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise) or (ii) entered into for the purpose of assuring in any other manner the holder of such Debt of the payment thereof or to protect such holder against loss in respect thereof (in whole or in part), provided that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business. The term "GUARANTEE" used as a verb has a corresponding meaning.

"HAZARDOUS SUBSTANCES" means any toxic, radioactive, caustic or otherwise hazardous substance, including petroleum, its derivatives, by-products and other hydrocarbons, or any substance having any constituent elements displaying any of the foregoing characteristics.

"INCREASED COMMITMENTS" has the meaning set forth in Section 2.15 hereof.

"INDEMNIFIED LIABILITIES" has the meaning set forth in Section 9.03(b).

"INDEMNITEE" has the meaning set forth in Section 9.03(b).

"INSOLVENCY PROCEEDING" means (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (b) any general assignment for the benefit of creditors, composition, marshaling of assets for creditors, or other, similar arrangement in respect of its creditors generally or any substantial portion of its creditors, undertaken under U.S. Federal, state or foreign law, including the Federal Bankruptcy Reform Act of 1978 (11 U.S.C. Sec 101, et seq.).

"INTEREST PERIOD" means: (1) with respect to each Euro-Dollar Loan, (i) the period commencing on the date of borrowing specified in the applicable Notice of Borrowing or on the date specified in an applicable Notice of Interest Rate Election and ending one, two, three or six months thereafter, as the Borrower may elect in the applicable Notice of Borrowing or (ii) if the Borrower requests a maturity of nine or twelve months in the applicable Notice of Borrowing or Notice of Interest Rate Election and each Lender advises the Administrative Agent that deposits in dollars with maturities of nine or twelve months, as the case may be, are being offered to such Lender in the London interbank market in amounts sufficient to fund such Lender's proportionate share of such Borrowing or that such Interest Period is otherwise acceptable to such Lender, the period commencing on the date of such Borrowing and ending nine or twelve months thereafter, as the case may be, provided that:

(a) any Interest Period which would otherwise end on a day which is not a Euro-Dollar Business Day shall, subject to clause (c) below, be extended to the next succeeding Euro-Dollar Business Day unless such Euro-Dollar Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Euro-Dollar Business Day;

(b) any Interest Period which begins on the last Euro-Dollar Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall, subject to clause (c) below, end on the last Euro-Dollar Business Day of a calendar month; and

(c) any Interest Period which would otherwise end after the Termination Date shall end on the Termination Date.

(2) with respect to each Money Market LIBOR Loan, the period commencing on the date of borrowing specified in the applicable Notice of Borrowing and ending one, two, three, six, nine or twelve months thereafter as the Borrower may elect in accordance with Section 2.03; provided that:

(a) any Interest Period which would otherwise end on a day which is not a Euro-Dollar Business Day shall, subject to clause (b) below, be extended to the next succeeding Euro-Dollar Business Day unless such Euro-Dollar Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Euro-Dollar Business Day;

(b) any Interest Period which begins on the last Euro-Dollar Business Day of a calendar month (or on a day for which there is no numerically

corresponding day in the calendar month at the end of such Interest Period) shall, subject to clause (c) below, end on the last Euro-Dollar Business Day of a calendar month; and

(c) any Interest Period which would otherwise end after the Termination Date shall end on the Termination Date.

(3) with respect to each Money Market Absolute Rate Loan, the period commencing on the date of borrowing specified in the applicable Notice of Borrowing and ending such number of days thereafter (but not less than 7 days or more than 366 days) as the Borrower may elect in accordance with Section 2.03; provided that:

(a) any Interest Period which would otherwise end on a day which is not a Euro-Dollar Business Day shall, subject to clause (b) below, be extended to the next succeeding Euro-Dollar Business Day; and

(b) any Interest Period which would otherwise end after the Termination Date shall end on the Termination Date.

"INTERNAL REVENUE CODE" means the Internal Revenue Code of 1986, as amended, or any successor statute.

"LENDER" means each Person listed on the signature pages hereof with a Commitment opposite its name, each Additional Lender or Eligible Assignee which becomes a Lender pursuant to Section 2.15 or 9.07(c), as the case may be, and their respective successors.

"LIBOR AUCTION" means a solicitation of Money Market Quotes setting forth Money Market Margins based on the London Interbank Offered Rate pursuant to Section 2.03.

"LIEN" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset. For the purposes of this Agreement, the Borrower or any Subsidiary shall be deemed to own subject to a Lien any asset which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset.

"LOAN" means a Base Rate Loan, a Euro-Dollar Loan or a Money Market Loan and "Loans" means Base Rate Loans, Euro-Dollar Loans or Money Market Loans or any combination of the foregoing.

"LONDON INTERBANK OFFERED RATE" has the meaning set forth in Section 2.07(b).

"MATERIAL ADVERSE EFFECT" means (i) any material adverse effect upon the business, financial position or results of operations of the Borrower and its Consolidated Subsidiaries, taken as a whole; (ii) a material impairment of the ability of the Borrower to perform its obligations under this Agreement or (iii) a material adverse effect on the rights and remedies of the Agents and the Lenders under this Agreement.

"MATERIAL DEBT" means Debt (other than the Notes) of the Borrower and/or one or more of its Subsidiaries, arising in one or more related or unrelated transactions, in an aggregate principal or face amount exceeding \$50,000,000.

"MATERIAL FINANCIAL OBLIGATIONS" means a principal or face amount of Debt and/or net payment obligations in respect of Derivatives Obligations of the Borrower and/or one or more of its Subsidiaries, arising in one or more related or unrelated transactions, exceeding in the aggregate \$50,000,000.

"MATERIAL PLAN" means at any time a Plan or Plans having aggregate Unfunded Liabilities in excess of \$50,000,000.

"MATERIAL SUBSIDIARY" means at any time any Subsidiary which at such time is a "significant subsidiary" as such term is defined in Rule 1-02 of Regulation S-X promulgated by the Securities and Exchange Commission.

"MONEY MARKET ABSOLUTE RATE" has the meaning set forth in Section 2.03(d)(ii)(D).

"MONEY MARKET ABSOLUTE RATE LOAN" means a loan to be made by a Lender pursuant to an Absolute Rate Auction.

"MONEY MARKET LENDING OFFICE" means, as to each Lender, its Domestic Lending Office or such other office, branch or affiliate of such Lender as it may hereafter designate as its Money Market Lending Office by notice to the Borrower and the Administrative Agent; provided that any Lender may from time to time by notice to the Borrower and the Administrative Agent designate separate Money Market Lending Offices for its Money Market LIBOR Loans, on the one hand, and its Money Market Absolute Rate Loans, on the other hand, in which case all references herein to the Money Market Lending Office of such Lender shall be deemed to refer to either or both of such offices, as the context may require.

"MONEY MARKET LIBOR LOAN" means a loan to be made by a Lender pursuant to a LIBOR Auction (including such a loan bearing interest at the Base Rate pursuant to Section 8.01).

"MONEY MARKET LOAN" means a Money Market LIBOR Loan or a Money Market Absolute Rate Loan.

"MONEY MARKET MARGIN" has the meaning set forth in Section 2.03(d)(ii)(c).

"MONEY MARKET QUOTE" means an offer by a Lender to make a Money Market Loan in accordance with Section 2.03.

"MULTIEMPLOYER PLAN" means at any time an employee pension benefit plan within the meaning of Section 4001(a)(3) of ERISA to which any member of the ERISA Group is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions, including for these purposes any Person which ceased to be a member of the ERISA Group during such five year period.

"NET QUALIFYING ASSETS" means, on the last day of any fiscal quarter, the sum of (i) cash, (ii) cash equivalents, (iii) marketable securities to be disposed within one year of the date of acquisition thereof and (iv) long-term investments (other than any such assets subject to a Lien permitted by Section 5.09(a), (b), (h) or (j)), less the Debt of the Borrower and its Consolidated Subsidiaries, all determined on a consolidated basis for the Borrower and its Consolidated Subsidiaries as of such date.

"NOTES" means any promissory notes issued pursuant to Section 2.05(b).

"NOTICE OF BORROWING" means a Notice of Committed Borrowing or a Notice of Money Market Borrowing.

"NOTICE OF COMMITTED BORROWING" has the meaning set forth in Section 2.02.

"NOTICE OF INTEREST RATE ELECTION" has the meaning set forth in Section 2.17.

"NOTICE OF MONEY MARKET BORROWING" has the meaning set forth in Section 2.03(f).

"PARENT" means, with respect to any Lender, any Person controlling such Lender.

"PARTICIPANT" has the meaning set forth in Section 9.07(b).

"PBGC" means the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

"PERSON" means an individual, a corporation, a partnership, an association, a trust or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"PLAN" means at any time an employee pension benefit plan (other than a Multiemployer Plan) which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Internal Revenue Code and either (i) is maintained, or contributed to, by any member of the ERISA Group for employees of any member of the ERISA Group or (ii) has at any time within the preceding five years been maintained, or contributed to, by any Person which was at such time a member of the ERISA Group for employees of any Person which was at such time a member of the ERISA Group.

"PRICING SCHEDULE" means the Schedule attached hereto identified as such. "Quarterly Payment Dates" means each March 31, June 30, September 30 and December 31.

"REFERENCE BANKS" means the principal London offices of Citibank, N.A., Union Bank of Switzerland and Morgan Guaranty Trust Company of New York or replacements thereof selected by the Administrative Agent and reasonably acceptable to the Borrower.

"REFERENCE RATE" means the rate of interest publicly announced by Citibank, N.A. in New York City from time to time as its base rate.

"REGULATION U" means Regulation U of the Board of Governors of the Federal Reserve System, as in effect from time to time.

"REQUIRED LENDERS" means at any time Lenders having at least 60% of the aggregate amount of the Commitments or, if the Commitments shall have been terminated, holding at least 60% of the aggregate unpaid principal amount of the Loans.

"SUBSIDIARY" means, as to any Person, any corporation or other entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at the time directly or indirectly owned by such Person; unless otherwise specified, "Subsidiary" means a Subsidiary of the Borrower.

"SYNTHETIC LEASE" means (i) any lease transaction intended by the parties to be treated as an operating lease for financial reporting purposes but to enable the lessee to be treated as the owner for federal income tax purposes or (ii) any similar off-balance-sheet lease transaction.

"TERMINATION DATE" means July 2, 2002, or, if such day is not a Euro- Dollar Business Day, the next preceding Euro-Dollar Business Day.

"UNFUNDED LIABILITIES" means, with respect to any Plan at any time, the amount (if any) by which (i) the value of all benefit liabilities under such Plan, determined on a plan termination basis using the assumptions prescribed by the PBGC for purposes of Section 4044 of ERISA, exceeds (ii) the fair market value of all Plan assets allocable to such liabilities under Title IV of ERISA (excluding any accrued but unpaid contributions), all determined as of the then most recent valuation date for such Plan, but only to the extent that such excess represents a potential liability of a member of the ERISA Group to the PBGC or any other Person under Title IV of ERISA.

"UNITED STATES" means the United States of America, including the States and the District of Columbia, but excluding its territories and possessions.

Section 1.02. Accounting Terms and Determinations. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared in accordance with generally accepted accounting principles as in effect from time to time, applied on a basis consistent (except for changes concurred in by the Borrower's independent public accountants) with the most recent audited consolidated financial statements of the Borrower and its Consolidated Subsidiaries delivered to the Lenders; provided that, no change in generally accepted accounting principles shall affect the operation of any covenant if the Borrower notifies the Administrative Agent that the Borrower wishes to amend such covenant in Article 5 to eliminate such effect (or if the Administrative Agent notifies the Borrower that the Required Lenders wish to amend Article 5 for such purpose) until either such notice is withdrawn or such covenant is amended in a manner satisfactory to the Borrower and the Required Lenders. Until such notice is given or withdrawal is made, as the case

may be, the Borrower's compliance with such covenant shall be determined on the basis of generally accepted accounting principles in effect immediately before the relevant change in generally accepted accounting principles became effective.

Section 1.03. Types of Borrowings. The term "BORROWING" denotes the aggregation of Loans of one or more Lenders to be made to the Borrower pursuant to Article 2 on a single date and for a single Interest Period. Borrowings are classified for purposes of this Agreement either by reference to the pricing of Loans comprising such Borrowing (e.g., a "FIXED RATE BORROWING" is a Euro-Dollar Borrowing or a Money Market Borrowing (excluding any such Borrowing consisting of Money Market LIBOR Loans bearing interest at the Base Rate pursuant to Section 8.01), and a "EURO-DOLLAR BORROWING" is a Borrowing comprised of Euro-Dollar Loans) or by reference to the provisions of Article 2 under which participation therein is determined (i.e., a "COMMITTED BORROWING" is a Borrowing under Section 2.01 in which all Lenders participate in proportion to their Commitments, while a "MONEY MARKET BORROWING" is a Borrowing under Section 2.03 in which the Lender participants are determined on the basis of their bids in accordance therewith).

ARTICLE 2

The Credits

Section 2.01. Commitments to Lend. Each Lender severally agrees, on the terms and conditions set forth in this Agreement, to make Loans to the Borrower pursuant to this Section from time to time from the Closing Date to but excluding the Termination Date in amounts such that the aggregate principal amount of Committed Loans by such Lender at any one time outstanding shall not exceed the amount of its Commitment. Each Borrowing under this Section shall be in an aggregate principal amount of \$10,000,000 or any larger multiple of \$1,000,000 (except that any such Borrowing may be in the aggregate amount available in accordance with Section 3.02) and shall be made from the several Lenders ratably in proportion to their respective Commitments. Within the foregoing limits, the Borrower may borrow under this Section, repay, or to the extent permitted by Section 2.11, prepay Loans and reborrow at any time under this Section.

Section 2.02. Notice of Committed Borrowing. The Borrower shall give the Administrative Agent notice (a "NOTICE OF COMMITTED BORROWING") (x) not later than 1:00 P.M. (New York City time) on the date of each Base Rate

Borrowing and (y) not later than 1:00 P.M. (New York City time) on the third Euro-Dollar Business Day before each Euro-Dollar Borrowing, specifying:

- (i) the date of such Borrowing, which shall be a Domestic Business Day in the case of a Base Rate Borrowing or a Euro-Dollar Business Day in the case of a Euro-Dollar Borrowing;
- (ii) the aggregate amount of such Borrowing;
- (iii) whether the Loans comprising such Borrowing are to bear interest initially at the Base Rate or a Euro-Dollar Rate; and
- (iv) in the case of a Euro-Dollar Borrowing, the duration of the initial interest Period applicable thereto, subject to the provisions of the definition of Interest Period.

Notwithstanding the foregoing, no more than 10 Euro-Dollar Borrowings shall be outstanding at any one time, and any Borrowing which would exceed such limitation shall be made as a Base Rate Borrowing.

Section 2.03. Money Market Borrowings. (a) The Money Market Option. In addition to Committed Borrowings pursuant to Section 2.01, the Borrower may request the Lenders to make offers to make Money Market Loans to the Borrower in accordance with this Section. The Lenders may, but shall have no obligation to, make such offers and the Borrower may, but shall have no obligation to, accept any such offers in the manner set forth in this Section.

(b) Money Market Quote Request. When the Borrower wishes to request offers to make Money Market Loans under this Section, it shall transmit to the Administrative Agent by telex or facsimile transmission a Money Market Quote Request substantially in the form of Exhibit B hereto so as to be received not later than 1:00 P.M. (New York City time) on (x) the fourth Euro-Dollar Business Day prior to the date of Borrowing proposed therein, in the case of a LIBOR Auction or (y) the Domestic Business Day next preceding the date of Borrowing proposed therein, in the case of an Absolute Rate Auction (or, in either case, such other time or date as the Borrower and the Administrative Agent shall have mutually agreed and shall have notified to the Lenders not later than the date of the Money Market Quote Request for the first LIBOR Auction or Absolute Rate Auction for which such change is to be effective) specifying:

(i) the proposed date of Borrowing, which shall be a Euro-Dollar Business Day in the case of a LIBOR Auction or a Domestic Business Day in the case of an Absolute Rate Auction,

(ii) the aggregate amount of such Borrowing, which shall be \$10,000,000 or a larger multiple of \$1,000,000,

(iii) the duration of the Interest Period applicable thereto, subject to the provisions of the definition of Interest Period, and

(iv) whether the Money Market Quotes requested are to set forth a Money Market Margin or a Money Market Absolute Rate.

The Borrower may request offers to make Money Market Loans for up to three different Interest Periods in a single Money Market Quote Request. No Money Market Quote Request shall be given within five Euro-Dollar Business Days (or such other number of days as the Borrower and the Administrative Agent may agree) of any other Money Market Quote Request.

(c) Invitation for Money Market Quotes. Promptly upon receipt of a Money Market Quote Request, the Administrative Agent shall send to the Lenders by telex or facsimile transmission an Invitation for Money Market Quotes substantially in the form of Exhibit C hereto, which shall constitute an invitation by the Borrower to each Lender to submit Money Market Quotes offering to make the Money Market Loans to which such Money Market Quote Request relates in accordance with this Section.

(d) Submission and Contents of Money Market Quotes. (i) Each Lender may submit a Money Market Quote containing an offer or offers to make Money Market Loans in response to any Invitation for Money Market Quotes. Each Money Market Quote must comply with the requirements of this subsection 2.03(d) and must be submitted to the Administrative Agent by telex or facsimile transmission at its offices specified in or pursuant to Section 9.01 not later than (x) 2:00 P.M. (New York City time) on the fourth Euro-Dollar Business Day prior to the proposed date of Borrowing, in the case of a LIBOR Auction or (y) 12:00 Noon (New York City time) on the proposed date of Borrowing, in the case of an Absolute Rate Auction (or, in either case, such other time or date as the Borrower and the Administrative Agent shall have mutually agreed and shall have notified to the Lenders not later than the date of the Money Market Quote Request for the first LIBOR Auction or Absolute Rate Auction for which such change is to be effective); provided that Money Market Quotes submitted by the Administrative Agent (or any affiliate of the Administrative Agent) in the capacity of a Lender

may be submitted, and may only be submitted, if the Administrative Agent or such affiliate notifies the Borrower of the terms of the offer or offers contained therein not later than (x) one hour prior to the deadline for the other Lenders, in the case of a LIBOR Auction or (y) 15 minutes prior to the deadline for the other Lenders, in the case of an Absolute Rate Auction. Subject to Articles 3 and 6, any Money Market Quote so made shall be irrevocable except with the written consent of the Administrative Agent given on the instructions of the Borrower.

(ii) Each Money Market Quote shall be in substantially the form of Exhibit D hereto and shall in any case specify:

(A) the proposed date of Borrowing,

(B) the principal amount of the Money Market Loan for which each such offer is being made, which principal amount (w) may be equal to, greater than or less than the Commitment of the quoting Lender, (x) must be \$10,000,000 or a larger multiple of \$1,000,000, (y) may not exceed the principal amount of Money Market Loans for which offers were requested and (z) may be subject to an aggregate limitation as to the principal amount of Money Market Loans for which offers being made by such quoting Lender may be accepted,

(C) in the case of a LIBOR Auction, the margin above or below the applicable London Interbank Offered Rate (the "Money Market Margin") offered for each such Money Market Loan, expressed as a percentage (specified to the nearest 1/10,000th of 1%) to be added to or subtracted from such base rate,

(D) in the case of an Absolute Rate Auction, the rate of interest per annum (specified to the nearest 1/10,000th of 1%) (the "Money Market Absolute Rate") offered for each such Money Market Loan, and

(E) the identity of the quoting Lender.

A Money Market Quote may set forth up to five separate offers by the quoting Lender with respect to each Interest Period specified in the related Invitation for Money Market Quotes.

(iii) Any Money Market Quote shall be disregarded if it:

(A) is not substantially in conformity with Exhibit D hereto or does not specify all of the information required by subsection 2.03(d)(ii);

(B) contains qualifying, conditional or similar language;

(C) proposes terms other than or in addition to those set forth in the applicable Invitation for Money Market Quotes; or

(D) arrives after the time set forth in subsection 2.03(d)(i).

(e) Notice to Borrower. The Administrative Agent shall promptly notify the Borrower of the terms (x) of any Money Market Quote submitted by a Lender that is in accordance with subsection 2.03(d) and (y) of any Money Market Quote that amends, modifies or is otherwise inconsistent with a previous Money Market Quote submitted by such Lender with respect to the same Money Market Quote Request. Any such subsequent Money Market Quote shall be disregarded by the Administrative Agent unless such subsequent Money Market Quote is submitted solely to correct a manifest error in such former Money Market Quote. The Administrative Agent's notice to the Borrower shall specify (A) the aggregate principal amount of Money Market Loans for which offers have been received for each Interest Period specified in the related Money Market Quote Request, (B) the respective principal amounts and Money Market Margins or Money Market Absolute Rates, as the case may be, so offered and (C) if applicable, limitations on the aggregate principal amount of Money Market Loans for which offers in any single Money Market Quote may be accepted.

(f) Acceptance and Notice by Borrower. Not later than 1:00 P.M. (New York City time) on (x) the third Euro-Dollar Business Day prior to the proposed date of Borrowing, in the case of a LIBOR Auction or (y) the proposed date of Borrowing, in the case of an Absolute Rate Auction (or, in either case, such other time or date as the Borrower and the Administrative Agent shall have mutually agreed and shall have notified to the Lenders not later than the date of the Money Market Quote Request for the first LIBOR Auction or Absolute Rate Auction for which such change is to be effective), the Borrower shall notify the Administrative Agent of its acceptance or non-acceptance of the offers so notified to it pursuant to subsection 2.03(e). The Borrower may, but shall have no obligation to, accept any such offers in the manner set forth in this Section. In the case of acceptance, such notice (a "Notice of Money Market Borrowing") shall specify the aggregate principal amount of offers for each Interest Period that are accepted. The Borrower may accept any Money Market Quote in whole or in part; provided that:

(i) the aggregate principal amount of each Money Market Borrowing may not exceed the applicable amount set forth in the related Money Market Quote Request;

(ii) the aggregate principal amount of each Money Market Borrowing must be \$10,000,000 or a larger multiple of \$1,000,000;

(iii) acceptance of offers for any requested Interest Period may only be made on the basis of ascending Money Market Margins or Money Market Absolute Rates, as the case may be; and

(iv) the Borrower may not accept any offer that is described in subsection 2.03(d)(iii) or that otherwise fails to comply with the requirements of this Agreement.

(g) Allocation by Administrative Agent. If offers are made by two or more Lenders with the same Money Market Margins or Money Market Absolute Rates, as the case may be, for a greater aggregate principal amount than the amount in respect of which such offers are accepted for the related Interest Period, the principal amount of Money Market Loans in respect of which such offers are accepted shall be allocated by the Administrative Agent among such Lenders as nearly as possible (in multiples of \$1,000,000, as the Administrative Agent may deem appropriate) in proportion to the aggregate principal amounts of such offers. Determinations by the Administrative Agent of the amounts of Money Market Loans shall be conclusive in the absence of manifest error.

(h) Notice by Administrative Agent. Promptly following each Money Market Borrowing, the Administrative Agent shall notify each Lender of (i) the ranges of bids submitted, (ii) the highest and lowest bids accepted for such Borrowing and (iii) the aggregate principal amount of the Loans included in such Borrowing.

Section 2.04. Notice to Lenders; Funding of Loans. (a) Upon receipt of a Notice of Borrowing, the Administrative Agent shall promptly notify each Lender of the contents thereof and of such Lender's share (if any) of such Borrowing and such Notice of Borrowing shall not thereafter be revocable by the Borrower.

(b) Not later than 2:00 P.M. (New York City time) on the date of each Borrowing, each Lender participating therein shall make available its share of such Borrowing, in federal or other funds immediately available in New York

City, to the Administrative Agent at its address referred to in Section 9.01. Unless the Administrative Agent determines that any applicable condition specified in Article 3 has not been satisfied, the Administrative Agent will make the funds so received from the Lenders available to the Borrower at the Administrative Agent's aforesaid address.

(c) Unless the Administrative Agent shall have received notice from a Lender prior to the date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available to the Administrative Agent on the date of such Borrowing in accordance with subsection (b) of this Section and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If and to the extent that such Lender shall not have so made such share available to the Administrative Agent, such Lender and the Borrower severally agree to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is repaid to the Administrative Agent, at (i) in the case of the Borrower, a rate per annum equal to the higher of the Federal Funds Rate and the interest rate applicable thereto pursuant to Section 2.07 and (ii) in the case of such Lender, the Federal Funds Rate. If such Lender shall repay to the Administrative Agent such corresponding amount, such amount so repaid shall constitute such Lender's Loan included in such Borrowing for purposes of this Agreement.

Section 2.05. Registry. (a) The Administrative Agent shall maintain a register (the "Register") on which it will record the Commitment of each Lender, each Loan made by such Lender and each repayment of any Loan made by such Lender. Any such recordation by the Administrative Agent on the Register shall be conclusive, absent manifest error. Each Lender shall record on its internal records (including computerized systems) the foregoing information as to its own Commitment and Loans. Failure to make any such recordation, or any error in such recordation, shall not affect the Borrower's obligations hereunder.

(b) The Borrower hereby agrees that, promptly upon the request of any Lender at any time, the Borrower shall deliver to such Lender a duly executed promissory note (a "Note"), substantially in the form of Exhibit A hereto, payable to the order of such Lender and representing the obligation of the Borrower to pay the unpaid principal amount of the Loans made by such Lender, with interest as provided herein on the unpaid principal amount from time to time outstanding.

Section 2.06. Maturity of Loans. Each Loan shall mature, and the principal amount thereof shall be due and payable (together with interest accrued thereon), on the Termination Date.

Section 2.07. Interest Rates. (a) Each Base Rate Loan shall bear interest on the outstanding principal amount thereof, for each day from the date such Loan is made until it becomes due, at a rate per annum equal to the Base Rate for such day. Such interest shall be payable at maturity, quarterly in arrears on each Quarterly Payment Date prior to maturity and, with respect to the principal amount of any Base Rate Loan converted to a Euro-Dollar Loan, on the date such amount is so converted. Any overdue principal of or interest on any Base Rate Loan shall bear interest, payable on demand, for each day until paid at a rate per annum equal to the sum of 2% plus the rate otherwise applicable to Base Rate Loans for such day.

(b) Each Euro-Dollar Loan shall bear interest on the outstanding principal amount thereof, for each day during each Interest Period applicable thereto, at a rate per annum equal to the sum of the Euro-Dollar Margin for such day plus the London Interbank Offered Rate applicable to such Interest Period.

Such interest shall be payable in arrears for each Interest Period on the last day thereof and, if such Interest Period is longer than three months, at intervals of three months after the first day thereof.

The "LONDON INTERBANK OFFERED RATE" applicable to any Interest Period means the rate appearing on Page 3750 of the Telerate Service (or on any successor or substitute page of such service, or any successor to or substitute for such service, providing rate quotations comparable to those currently provided on such page of the Telerate Service, as determined by the Administrative Agent from time to time for purposes of providing quotations of interest rates applicable to dollar deposits in the London interbank market) at approximately 11:00 A.M. (London time) two Euro-Dollar Business Days prior to the commencement of such Interest Period, as the rate for dollar deposits with a maturity comparable to such Interest Period. In the event that such rate is not so available at such time for any reason, then the "London Interbank Offered Rate" with respect to such Euro-Dollar Borrowing for such Interest Period shall be the average (rounded upward, if necessary, to the next higher 1/16 of 1%) of the respective rates per annum at which deposits in dollars are offered to each of the Reference Banks in the London interbank market at approximately 11:00 A.M. (London time) two Euro-Dollar Business Days before the first day of such Interest Period in an amount approximately equal to the principal amount of the Euro-Dollar Loan of such Reference Bank to which such Interest Period is to apply and for a period of

time comparable to such Interest Period. If any Reference Bank does not furnish a timely quotation, the Administrative Agent shall determine the relevant interest rate on the basis of the quotation or quotations furnished by the remaining Reference Bank or Banks or, if none of such quotations is available on a timely basis, the provisions of Section 8.01 shall apply.

(c) Any overdue principal of or interest on any Euro-Dollar Loan shall bear interest, payable on demand, for each day until paid at a rate per annum equal to the higher of (i) the sum of 2% plus the Euro-Dollar Margin for such day plus the London Interbank Offered Rate applicable to such Loan on the day before such payment was due and (ii) the sum of 2% plus the rate applicable to Base Rate Loans for such day.

(d) Subject to Section 8.01, each Money Market LIBOR Loan shall bear interest on the outstanding principal amount thereof, for the Interest Period applicable thereto, at a rate per annum equal to the sum of the London Interbank Offered Rate for such Interest Period (determined in accordance with subsection

(b) as if the related Money Market LIBOR Borrowing were a Committed Euro-Dollar Borrowing) plus (or minus) the Money Market Margin quoted by the Lender making such Loan in accordance with Section 2.03. Each Money Market Absolute Rate Loan shall bear interest on the outstanding principal amount thereof, for the Interest Period applicable thereto, at a rate per annum equal to the Money Market Absolute Rate quoted by the Lender making such Loan in accordance with Section 2.03. Such interest shall be payable in arrears for each Interest Period on the last day thereof and, if such Interest Period is longer than three months, at intervals of three months after the first day thereof. Any overdue principal of or interest on any Money Market Loan shall bear interest, payable on demand, for each day until paid at a rate per annum equal to the sum of 2% plus the Base Rate for such day.

(e) The Administrative Agent shall determine each interest rate applicable to the Loans hereunder. The Administrative Agent shall give prompt notice to the Borrower and the participating Lenders of each rate of interest so determined, and its determination thereof shall be conclusive in the absence of manifest error.

Section 2.08. Facility Fees. The Borrower shall pay to the Administrative Agent for the account of the Lenders ratably a facility fee as set forth in this paragraph at the facility fee rate determined daily in accordance with the Pricing Schedule (the "Facility Fee Rate"). Such facility fee shall accrue (i) from and including the Effective Date to but excluding the date of termination of the Commitments in their entirety, on the daily aggregate amount of the

Commitments (whether used or unused) and (ii) from and including such date of termination to but excluding the date the Loans shall be repaid in their entirety, on the sum of the daily aggregate outstanding principal amount of the Loans. Accrued fees under this Section shall be payable quarterly in arrears on each Quarterly Payment Date and on the date of termination of the Commitments in their entirety (and, if later, the date the Loans shall be repaid in their entirety). In the case of Commitment reductions pursuant to Section 2.09, effective upon such reduction, the foregoing fees shall be calculated on such Commitments as so reduced.

Section 2.09. Optional Termination or Reduction of Commitments. The Borrower may, upon at least three Domestic Business Days' notice to the Administrative Agent, (i) terminate the Commitments at any time, if no Loans are outstanding at such time or (ii) ratably reduce from time to time by an aggregate amount of \$10,000,000 or a larger multiple of \$1,000,000, the aggregate amount of the Commitments in excess of the aggregate outstanding principal amount of the Loans.

Section 2.10. Mandatory Termination of Commitments. The Commitments shall terminate on the Termination Date and any Loans then outstanding (together with accrued interest thereon) shall be due and payable on such date.

Section 2.11. Optional Payments. (a) Subject in the case of any Euro- Dollar Borrowing to Section 2.13, the Borrower may, upon notice to the Administrative Agent not later than 12:00 Noon (New York City time) on the date of such prepayment, prepay any Group of Base Rate Loans (or any Money Market Borrowing bearing interest at the Base Rate pursuant to Section 8.01) or upon at least three Euro-Dollar Business Days' notice to the Administrative Agent, prepay any Group of Euro-Dollar Loans, in each case in whole at any time, or from time to time in part in amounts aggregating \$10,000,000 or any larger multiple of \$1,000,000, by paying the principal amount to be prepaid together with accrued interest thereon to the date of prepayment. Each such optional prepayment shall be applied to prepay ratably the Loans of the several Lenders included in such Group of Loans (or such Money Market Borrowing).

(b) Except (i) as provided in subsection (a) above or (ii) with respect to any particular Money Market Loan, as agreed upon between the Lender making such Loan and the Borrower, the Borrower may not prepay all or any portion of the principal amount of any Money Market Loan prior to the maturity thereof.

(c) Upon receipt of a notice of prepayment pursuant to this Section, the Administrative Agent shall promptly notify each Lender of the contents thereof and of such Lender's ratable share (if any) of such prepayment and such notice shall not thereafter be revocable by the Borrower.

Section 2.12. General Provisions as to Payments. (a) The Borrower shall make each payment of principal of, and interest on, the Loans, and facility fees not later than 2:00 P.M. (New York City time) on the date when due, in Federal or other funds immediately available in New York City, to the Administrative Agent at its address referred to in Section 9.01. The Administrative Agent will promptly distribute to each Lender its ratable share of each such payment received by the Administrative Agent for the account of the Lenders. Whenever any payment of principal of, or interest on, the Base Rate Loans or of fees shall be due on a day which is not a Domestic Business Day, the date for payment thereof shall be extended to the next succeeding Domestic Business Day. Whenever any payment of principal of, or interest on, the Euro-Dollar Loans shall be due on a day which is not a Euro-Dollar Business Day, the date for payment thereof shall be extended to the next succeeding Euro-Dollar Business Day unless such Euro-Dollar Business Day falls in another calendar month, in which case the date for payment thereof shall be the next preceding Euro-Dollar Business Day. Whenever any payment of principal of, or interest on, the Money Market Loans shall be due on a day which is not a Euro-Dollar Business Day, the date for payment thereof shall be extended to the next succeeding Euro-Dollar Business Day. If the date for any payment of principal is extended by operation of law or otherwise, interest thereon shall be payable for such extended time.

(b) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Lenders hereunder that the Borrower will not make such payment in full, the Administrative Agent may assume that the Borrower has made such payment in full to the Administrative Agent on such date and the Administrative Agent may, in reliance upon such assumption, cause to be distributed to each Lender on such due date an amount equal to the amount then due such Lender. If and to the extent that the Borrower shall not have so made such payment, each Lender shall repay to the Administrative Agent forthwith on demand such amount distributed to such Lender together with interest thereon, for each day from the date such amount is distributed to such Lender until the date such Lender repays such amount to the Administrative Agent, at the Federal Funds Rate.

Section 2.13. Funding Losses. If the Borrower makes any payment of principal with respect to any Fixed Rate Loan or any Fixed Rate Loan is

converted to a different type of Loan (pursuant to Article 2, 6 or 8 otherwise) on any day other than the last day of an Interest Period applicable thereto, or if the Borrower fails to borrow, prepay, convert or continue any Fixed Rate Loans after notice has been given to any Lender in accordance with Section 2.04(a), 2.09 or 2.11, the Borrower shall reimburse each Lender within 15 days after demand for any resulting loss or expense incurred by it including (without limitation) any loss incurred in obtaining, liquidating or employing deposits from third parties, but excluding loss of margin for the period after any such payment or conversion or failure to borrow, prepay, convert or continue; provided that such Lender shall have delivered to the Borrower a certificate setting forth in reasonable detail the nature and amount thereof and the basis for the calculation of such loss or expense, which certificate shall be conclusive in the absence of manifest error; and provided further that the Borrower shall not be required to make any payment to any Lender pursuant to this Section 2.13 as a result of any prepayment of any Euro-Dollar Loan of such Lender made by the Borrower pursuant to Section 8.02 if such Lender shall not have complied with the provisions of the second sentence of Section 8.02.

Section 2.14. Computation of Interest and Fees. Interest based on the Reference Rate hereunder shall be computed on the basis of a year of 365 days (or 366 days in a leap year) and paid for the actual number of days elapsed (including the first day but excluding the last day). All other interest and fees shall be computed on the basis of a year of 360 days and paid for the actual number of days elapsed (including the first day but excluding the last day).

Section 2.15. Increased Commitments; Additional Lenders. (a) From time to time (but no more than twice per calendar year), the Borrower may, upon notice of not less than 30 days nor more than 45 days to the Administrative Agent (which shall promptly provide a copy of such notice to the Lenders), propose to increase the aggregate amount of the Commitments by an amount not less than \$10,000,000 (the amount of any such increase, the "Increased Commitments"). Each Lender party to this Agreement at such time shall have the right (but no obligation), for a period of 15 days following receipt of such notice, to elect by notice to the Borrower and the Administrative Agent to increase its Commitment by a principal amount which bears the same ratio to the Increased Commitments as its then Commitment bears to the aggregate Commitments then existing. Any Lender not responding within 15 days of receipt of such notice shall be deemed to have declined to increase its Commitment.

(b) If any Lender party to this Agreement shall not elect to increase its Commitment pursuant to subsection (a) of this Section, the Borrower may, within 10 days of the Lenders' response, designate one or more of the existing Lenders

or other financial institutions acceptable to the Administrative Agent and the Borrower (which consent of the Administrative Agent and the Borrower shall not be unreasonably withheld) which at the time agree to (i) in the case of any such lender that is an existing Lender, increase its Commitment and (ii) in the case of any other such lender (an "Additional Lender"), become a party to this Agreement with a Commitment of not less than \$10,000,000. The sum of the increases in the Commitments of the existing Lenders pursuant to this subsection (b) plus the Commitments of the Additional Lenders shall not in the aggregate exceed the unsubscribed amount of the Increased Commitments.

(c) Any increase in the Commitments pursuant to this Section 2.15 shall be subject to satisfaction of the following conditions:

(i) before and after giving effect to such increase, all representations and warranties contained in Article 4 shall be true and correct in all material respects;

(ii) at the time of such increase, no Default shall have occurred and be continuing or would result from such increase; and

(iii) after giving effect to such increase, the aggregate amount of all increases in Commitments made pursuant to this Section 2.15 shall not exceed \$250,000,000.

(d) An increase in the aggregate amount of the Commitments pursuant to this Section 2.15 shall become effective upon the receipt by the Administrative Agent of (i) an agreement in form and substance satisfactory to the Administrative Agent signed by the Borrower, by each Additional Lender and by each other Lender whose Commitment is to be increased, setting forth the new Commitments of such Lenders and setting forth the agreement of each Additional Lender to become a party to this Agreement and to be bound by all the terms and provisions hereof, and (ii) such evidence of the satisfaction of the conditions set forth in subsection (c) above as the Administrative Agent may reasonably request.

(e) Upon any increase in the aggregate amount of the Commitments pursuant to this Section 2.15, within five Domestic Business Days, in the case of each Group of Base Rate Loans then outstanding, and at the end of the then current Interest Period with respect thereto, in the case of each Group of Euro- Dollar Loans then outstanding, the Borrower shall prepay such Group of Loans in its entirety and, to the extent the Borrower elects to do so and subject to the conditions specified in Article 3, the Borrower shall reborrow Committed Loans from the Lenders in proportion to their respective Commitments after giving

effect to such increase, until such time as all outstanding Committed Loans are held by the Lenders in such proportion.

Section 2.16. Regulation D Compensation. Each Lender may require the Borrower to pay, contemporaneously with each payment of interest on the Euro-Dollar Loans, additional interest on the related Euro-Dollar Loan of such Lender at a rate per annum determined by such Lender up to but not exceeding the excess of (i) (A) the applicable London Interbank Offered Rate divided by (B) one minus the Euro-Dollar Reserve Percentage over (ii) the applicable London Interbank Offered Rate. Any Lender wishing to require payment of such additional interest (x) shall so notify the Borrower and the Administrative Agent, in which case such additional interest on the Euro-Dollar Loans of such Lender shall be payable to such Lender at the place indicated in such notice with respect to each Interest Period commencing at least three Euro-Dollar Business Days after such Lender gives such notice and (y) shall furnish to the Borrower at least five Euro-Dollar Business Days prior to each date on which interest is payable on the Euro-Dollar Loans an officer's certificate setting forth the amount to which such Lender is then entitled under this Section (which shall be consistent with such Lender's good faith estimate of the level at which the related reserves are maintained by it). Each such certificate shall be accompanied by such information as the Borrower may reasonably request as to the computation set forth therein.

"EURO-DOLLAR RESERVE PERCENTAGE" means for any day that percentage (expressed as a decimal) which is in effect on such day, as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the maximum reserve requirement for a member bank of the Federal Reserve System in New York City with deposits exceeding five billion dollars in respect of "EUROCURRENCY LIABILITIES" (or in respect of any other category of liabilities which includes deposits by reference to which the interest rate on Euro-Dollar Loans is determined or any category of extensions of credit or other assets which includes loans by a non-United States office of any Lender to United States residents).

Section 2.17. Method of Electing Interest Rates. (a) The Loans included in each Committed Borrowing shall bear interest initially at the type of rate specified by the Borrower in the applicable Notice of Committed Borrowing. Thereafter, the Borrower may from time to time elect to change or continue the type of interest rate borne by each Group of Loans (subject to subsection (d) of this Section and the provisions of Article 8), as follows:

(i) if such Loans are Base Rate Loans, the Borrower may elect to convert such Loans to Euro-Dollar Loans as of any Euro-Dollar Business Day; and

(ii) if such Loans are Euro-Dollar Loans, the Borrower may elect to convert such Loans to Base Rate Loans or elect to continue such Loans as Euro-Dollar Loans for an additional Interest Period, subject to Section 2.13 if any such conversion is effective on any day other than the last day of an Interest Period applicable to such Loans.

Each such election shall be made by delivering a notice (a "NOTICE OF INTEREST RATE ELECTION") to the Administrative Agent not later than 1:00 P.M. (New York City time) on the third Euro-Dollar Business Day before the conversion or continuation selected in such notice is to be effective. A Notice of Interest Rate Election may, if it so specifies, apply to only a portion of the aggregate principal amount of the relevant Group of Loans; provided that (i) such portion is allocated ratably among the Loans comprising such Group and (ii) the portion to which such Notice applies, and the remaining portion to which it does not apply, are each at least \$10,000,000 (unless such portion is comprised of Base Rate Loans). If no such notice is timely received before the end of an Interest Period for any Group of Euro-Dollar Loans, the Borrower shall be deemed to have elected that such Group of Loans be converted to Base Rate Loans at the end of such Interest Period.

(b) Each Notice of Interest Rate Election shall specify:

(i) the Group of Loans (or portion thereof) to which such notice applies;

(ii) the date on which the conversion or continuation selected in such notice is to be effective, which shall comply with the applicable clause of subsection (a) above;

(iii) if the Loans comprising such Group are to be converted, the new type of Loans and, if the Loans resulting from such conversion are to be Euro-Dollar Loans, the duration of the next succeeding Interest Period applicable thereto; and

(iv) if such Loans are to be continued as Euro-Dollar Loans for an additional Interest Period, the duration of such additional Interest Period.

Each Interest Period specified in a Notice of Interest Rate Election shall comply with the provisions of the definition of Interest Period.

(c) Promptly after receiving a Notice of Interest Rate Election from the Borrower pursuant to subsection (a) above, the Administrative Agent shall notify each Lender of the contents thereof and such Notice of Interest Rate Election shall not thereafter be revocable by the Borrower.

(d) The Borrower shall not be entitled to elect to convert any Committed Loans to, or continue any Committed Loans for an additional Interest Period as, Euro-Dollar Loans if (i) the aggregate principal amounts of any Group of Euro- Dollar Loans created or continued as a result of such election would be less than \$10,000,000 or (ii) a Default shall have occurred and be continuing when the Borrower delivers notice of such election to the Administrative Agent.

ARTICLE 3

Conditions

Section 3.01. Closing. The closing hereunder shall occur upon receipt by the Documentation Agent of the following documents, each dated the Closing Date unless otherwise indicated:

- (a) an opinion of Brobeck Phleger & Harrison LLP, special counsel for the Borrower, substantially in the form of Exhibit E hereto;
- (b) an opinion of Davis Polk & Wardwell, special counsel for the Agents, substantially in the form of Exhibit F hereto and covering such additional matters relating to the transactions contemplated hereby as the Required Lenders may reasonably request;
- (c) evidence satisfactory to the Documentation Agent that all fees payable by the Borrower to the Documentation Agent and the Administrative Agent, in the amounts previously agreed upon between the Borrower and each such Agent, shall have been paid in full;
- (d) all documents the Documentation Agent may reasonably request relating to the existence of the Borrower, the corporate authority for and the validity of this Agreement and the Notes and the transactions contemplated hereby, all in form and substance satisfactory to the Documentation Agent.

The Documentation Agent shall promptly notify the Borrower, the Lenders and the Administrative Agent of the Closing Date, and such notice shall be conclusive and binding on all parties hereto. The Documentation Agent will forward to the Administrative Agent copies of all documents referred to in Section 3.01 promptly after the Closing Date.

Section 3.02. Credit Events. The obligation of any Lender to make a Loan on the occasion of any Borrowing is subject to the satisfaction of the following conditions: (a) the fact that the Closing Date shall have occurred;

(b) receipt by the Administrative Agent of a Notice of Borrowing as required by Section 2.02 or 2.03, as the case may be;

(c) the fact that, immediately after such Borrowing, the aggregate outstanding principal amount of the Loans will not exceed the aggregate amount of the Commitments;

(d) the fact that, immediately before and after such Borrowing, no Default shall have occurred and be continuing; and

(e) the fact that the representations and warranties of the Borrower contained in this Agreement (except the representations and warranties set forth in Sections 4.04(c) and 4.05 as to any matter which has theretofore been disclosed in writing by the Borrower to the Lenders) shall be true on and as of the date of such Borrowing; provided that the representations and warranties set forth in Sections 4.04 and 4.05 shall be deemed to refer to the last day of the most recent quarter and year for which financial statements have then been delivered in respect thereof.

Each Borrowing hereunder shall be deemed to be a representation and warranty by the Borrower on the date of such Borrowing as to the facts specified in subsections (c), (d) and (e) of this Section.

ARTICLE 4

Representations and Warranties

The Borrower represents and warrants that:

Section 4.01. Corporate Existence and Power. The Borrower is a corporation duly incorporated, validly existing and in good standing under the laws of the jurisdiction of its incorporation, and has all corporate powers and all material governmental licenses, authorizations, consents and approvals required to carry on its business as now conducted.

Section 4.02. Corporate and Governmental Authorization; No Contravention. The execution, delivery and performance by the Borrower of this Agreement and the Notes are within the corporate powers of the Borrower, have been duly authorized by all necessary corporate action, require no action by or in respect of, or filing with, any governmental body, agency or official and do not contravene, or constitute a default under, any provision of applicable law or regulation or of the certificate of incorporation or by-laws of the Borrower or of any agreement or instrument evidencing or governing Debt of the Borrower or a Subsidiary or any other material agreement, judgment, injunction, order, decree or other instrument binding upon the Borrower or any of its Subsidiaries or result in the creation or imposition of any Lien on any asset of the Borrower or any of its Subsidiaries.

Section 4.03. Binding Effect. This Agreement constitutes a valid and binding agreement of the Borrower and each Note, if and when executed and delivered in accordance with this Agreement, will constitute a valid and binding obligation of the Borrower, in each case enforceable in accordance with its terms except as the same may be limited by bankruptcy, insolvency or similar laws affecting creditors' rights generally and by general principles of equity.

Section 4.04. Financial Information. (a) The consolidated balance sheet of the Borrower and its Consolidated Subsidiaries as of July 28, 1996 and the related consolidated statements of operations and cash flows for the fiscal year then ended, reported on by Coopers & Lybrand L.L.P. and set forth in the Borrower's 1996 Form 10-K, a copy of which has been delivered to each of the Lenders, fairly present, in conformity with generally accepted accounting principles, the consolidated financial position of the Borrower and its Consolidated Subsidiaries as of such date and their consolidated results of operations and cash flows for such fiscal year.

(b) The unaudited consolidated balance sheet of the Borrower and its Consolidated Subsidiaries as of January 25, 1997 and the related unaudited consolidated statements of operations and cash flows for the six months then ended, set forth in the Borrower's Latest Form 10-Q, a copy of which has been delivered to each of the Lenders, fairly present, in conformity with generally accepted accounting principles applied on a basis consistent with the financial statements referred to in subsection (a) of this Section, the consolidated financial position of the Borrower and its Consolidated Subsidiaries as of such date and their consolidated results of operations and cash flows for such six-month period (subject to normal year-end adjustments).

(c) Since July 31, 1996 there has been no material adverse change in the business, condition (financial or otherwise) or results of operations of the Borrower and its Consolidated Subsidiaries, considered as a whole.

Section 4.05. Litigation. There is no action, suit or proceeding pending against, or to the knowledge of the Borrower threatened against or affecting, the Borrower or any of its Subsidiaries before any court or arbitrator or any governmental body, agency or official in which there is a reasonable possibility of an adverse decision which could reasonably be expected to have a Material Adverse Effect.

Section 4.06. Compliance with ERISA. Each member of the ERISA Group has fulfilled its obligations under the minimum funding standards of ERISA and the Internal Revenue Code with respect to each Plan and is in compliance in all material respects with the presently applicable provisions of ERISA and the Internal Revenue Code with respect to each Plan, except if no Material Adverse Effect could reasonably be expected to result therefrom. No member of the ERISA Group has (i) sought a waiver of the minimum funding standard under Section 412 of the Internal Revenue Code in respect of any Plan, (ii) failed to make any contribution or payment to any Plan or Multiemployer Plan or in respect of any Benefit Arrangement, or made any amendment to any Plan or Benefit Arrangement, which has resulted or could result in the imposition of a Lien or the posting of a bond or other security under ERISA or the Internal Revenue Code or (iii) incurred any liability under Title IV of ERISA other than a liability to the PBGC for premiums under Section 4007 of ERISA, except if no Material Adverse Effect could reasonably be expected to result therefrom.

Section 4.07. Environmental Matters. The Borrower has reasonably concluded that the liabilities and costs associated with the effect of Environmental Laws on the business, operations and properties of the Borrower and its Subsidiaries (including, without limitation, any capital or operating expenditures

required for clean-up or closure of properties presently or previously owned, any capital or operating expenditures required to achieve or maintain compliance with environmental protection standards imposed by law or as a condition of any license, permit or contract, any related constraints on operating activities, including any periodic or permanent shutdown of any facility or reduction in the level of or change in the nature of operations conducted thereat, any costs or liabilities in connection with off-site disposal of wastes or Hazardous Substances, and any actual or potential liabilities to third parties, including employees, and any related costs and expenses) could not reasonably be expected to have a Material Adverse Effect.

Section 4.08. Taxes. The Borrower and its Subsidiaries have filed all United States Federal income tax returns and all other material tax returns which are required to be filed by them and have paid all taxes due pursuant to such returns or pursuant to any assessment received by the Borrower or any Subsidiary, except to the extent such taxes are being contested in good faith and are adequately reserved against in accordance with generally accepted accounting principles. The charges, accruals and reserves on the books of the Borrower and its Subsidiaries in respect of taxes or other governmental charges are, in the opinion of the Borrower, adequate.

Section 4.09. Subsidiaries. Each of the Borrower's corporate Subsidiaries is a corporation duly incorporated, validly existing and in good standing under the laws of its jurisdiction of incorporation, and has all corporate powers and all material governmental licenses, authorizations, consents and approvals required to carry on its business as now conducted.

Section 4.10. Regulatory Restrictions on Borrowing. The Borrower is not an "investment company" within the meaning of the Investment Company Act of 1940, as amended, a "holding company" within the meaning of the Public Utility Holding Company Act of 1935, as amended, or otherwise subject to any regulatory scheme which restricts its ability to incur debt.

Section 4.11. Full Disclosure. All information in any exhibit, report, certificate or written statement heretofore furnished by the Borrower to the Administrative Agent or any Lender for purposes of or in connection with this Agreement or any transaction contemplated hereby, taken as a whole is, and all such information hereafter furnished by the Borrower to the Administrative Agent or any Lender, taken as a whole, will be, true and accurate in all material respects on the date as of which such information is stated or certified and not incomplete by omitting to state any material fact required to be stated therein or necessary to

make the statements made therein, in the light of the circumstances under which they are made, not misleading, as of the time made or delivered.

ARTICLE 5

Covenants

The Borrower agrees that, so long as any Lender has any Commitment hereunder or any amount payable hereunder remains unpaid:

Section 5.01. Information. The Borrower will deliver to the Administrative Agent for distribution to each of the Lenders:

(a) as soon as available and in any event within 105 days after the end of each fiscal year of the Borrower, a consolidated balance sheet of the Borrower and its Consolidated Subsidiaries as of the end of such fiscal year and the related consolidated statements of operations and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on in a manner acceptable to the Securities and Exchange Commission by Coopers & Lybrand or other independent public accountants of nationally recognized standing;

(b) as soon as available and in any event within 45 days after the end of each of the first three quarters of each fiscal year of the Borrower, a consolidated balance sheet of the Borrower and its Consolidated Subsidiaries as of the end of such quarter and the related consolidated statements of operations and cash flows for such quarter and for the portion of the Borrower's fiscal year ended at the end of such quarter, setting forth in the case of such statements of operations and cash flows, in comparative form the figures for the corresponding quarter and the corresponding portion of the Borrower's previous fiscal year, all certified (subject to normal year-end adjustments) as to fairness of presentation, generally accepted accounting principles and consistency by the chief financial officer, the chief accounting officer or the treasurer of the Borrower;

(c) simultaneously with the delivery of each set of financial statements referred to in clauses 5.01(a) and 5.01(b) above, a certificate of the chief financial officer, the chief accounting officer or the treasurer of the Borrower (i) setting forth in reasonable detail the calculations required to establish whether the Borrower was in compliance with the

requirements of Section 5.10 on the date of such financial statements,

(ii) setting forth Net Qualifying Assets as at the date of such financial statements and Consolidated Net Income for the period of four consecutive fiscal quarters then ended and (iii) stating whether any Default exists and is continuing on the date of such certificate and, if any Default then exists and is continuing, setting forth the details thereof and the action which the Borrower is taking or proposes to take with respect thereto;

(d) within five Domestic Business Days after any officer of the Borrower obtains knowledge of any Default, if such Default is then continuing, a certificate of the chief financial officer, the chief accounting officer or the treasurer of the Borrower setting forth the details thereof and the action which the Borrower is taking or proposes to take with respect thereto;

(e) promptly upon the mailing thereof to the shareholders of the Borrower generally, copies of all financial statements, reports and proxy statements so mailed;

(f) promptly upon the filing thereof, copies of all registration statements (other than the exhibits thereto and any registration statements on Form S-8 or its equivalent) and reports on Forms 10-K, 10-Q and 8-K (or their equivalents) which the Borrower shall have filed with the Securities and Exchange Commission;

(g) promptly upon the Borrower's obtaining knowledge thereof, notice of each change in or withdrawal of the ratings of the Borrower's senior unsecured long-term debt securities by either Moody's Investors Service, Inc. and its successors or Standard & Poor's Ratings Services and its successors and all information relating to such change or withdrawal; and

(h) from time to time such additional information regarding the financial position or business of the Borrower and its Subsidiaries as the Administrative Agent, at the request of any Lender, may reasonably request.

Information required to be delivered pursuant to subsections (a), (b), (e) or (f) of this Section 5.01 shall be deemed to have been delivered on the date on which the Borrower provides notice to the Lenders that such information has been posted on the Borrower's website on the Internet at the website address listed on the signature pages hereof or at sec.gov/edaux/searches.htm; provided that such

notice may be included in a certificate delivered pursuant to subsection (c) of this Section 5.01 and provided further that the Borrower shall deliver paper copies of the information referred to in subsections (a), (b), (e) or (f) of this Section 5.01 to any Lender who requests such delivery.

Section 5.02. Payment of Obligations. The Borrower will pay and discharge, and will cause each Subsidiary to pay and discharge, at or before maturity, all their respective obligations and liabilities in excess of \$10,000,000 in any one case and in the aggregate in excess of \$50,000,000 (including, without limitation, tax liabilities and claims of materialmen, warehousemen and the like which if unpaid might by law give rise to a Lien), except where the same may be contested in good faith by appropriate proceedings, and will maintain, and will cause each Subsidiary to maintain, in accordance with generally accepted accounting principles, appropriate reserves for the accrual of any of the same.

Section 5.03. Maintenance of Property; Insurance. (a) The Borrower will keep, and will cause each Subsidiary to keep, all property useful and necessary in its business in good working order and condition, ordinary wear and tear excepted.

(b) The Borrower will, and will cause each of its Subsidiaries to, maintain (either in the name of the Borrower or in such Subsidiary's own name) with financially sound and responsible insurance companies, insurance on all their respective properties in at least such amounts, against at least such risks and with such risk retention as are usually maintained, insured against or retained, as the case may be, in the same general area by companies of established repute engaged in the same or a similar business.

Section 5.04. Conduct of Business and Maintenance of Existence. The Borrower will continue, and will cause each Subsidiary to continue, to engage in business in the same industry as the industry which the business now conducted by the Borrower and its Subsidiaries is in, and will preserve, renew and keep in full force and effect, and will cause each Subsidiary to preserve, renew and keep in full force and effect their respective corporate existence and their respective rights, privileges and franchises necessary or desirable in the normal conduct of business; provided that nothing in this Section 5.04 shall prohibit (i) the merger of a Subsidiary into the Borrower or the merger or consolidation of a Subsidiary with or into another Person if the corporation surviving such consolidation or merger is a Subsidiary and if, in each case, after giving effect thereto, no Default shall have occurred and be continuing or (ii) the termination of the corporate existence of any Subsidiary if the Borrower in good faith determines that such termination is in

the best interest of the Borrower and is not materially disadvantageous to the Lenders.

Section 5.05. Compliance with Laws. The Borrower will comply, and cause each Subsidiary to comply, with all applicable laws, ordinances, rules, regulations, and requirements of Governmental Authorities (including, without limitation, Environmental Laws and ERISA and the rules and regulations thereunder) except where (i) the necessity of compliance therewith is contested in good faith by appropriate proceedings or (ii) noncompliance could not reasonably be expected to have a Material Adverse Effect.

Section 5.06. Inspection of Property, Books and Records. The Borrower will keep, and will cause each Subsidiary to keep, proper books of record and account in which full, true and correct entries shall be made of all dealings and transactions in relation to its business and activities; and will permit, and will cause each Subsidiary to permit, representatives of any Lender at such Lender's expense to visit and inspect any of their respective properties, to examine and make abstracts from any of their respective books and records and to discuss their respective affairs, finances and accounts with their respective officers, employees and independent public accountants, all at such reasonable times during normal business hours and as often as may reasonably be desired, subject to the provisions of Section 9.13.

Section 5.07. Mergers and Sales of Assets. The Borrower will not (i) consolidate or merge with or into any other Person or (ii) sell, lease or otherwise transfer, directly or indirectly, all or any substantial part of the assets of the Borrower and its Subsidiaries, taken as a whole, to any other Person; provided that the Borrower may merge with another Person if (x) the Borrower is the corporation surviving such merger and (y) after giving effect to such merger, no Default shall have occurred and be continuing.

Section 5.08. Use of Proceeds. The proceeds of the Loans made under this Agreement will be used by the Borrower for working capital and general corporate purposes. None of such proceeds will be used in violation of Regulation G, T, U or X of the Board of Governors of the Federal Reserve System, as in effect from time to time. None of such proceeds will be used for the acquisition of any Person unless such acquisition is recommended by the Board of Directors (or other persons performing similar functions) of such Person.

Section 5.09. Negative Pledge. Neither the Borrower nor any Subsidiary will create, assume or suffer to exist any Lien on any asset now owned or hereafter acquired by it, except:

- (a) Liens securing obligations in respect of Synthetic Leases, provided that the lesser of (i) the value of the collateral subject to such Liens or (ii) the face amount of the obligations secured thereby shall not exceed \$800,000,000;
- (b) any Lien existing on any asset of any corporation at the time such corporation becomes a Subsidiary and not created in contemplation of such event;
- (c) any Lien (including any such Lien arising pursuant to any capital lease, conditional sale or other title retention arrangement) on any asset securing Debt incurred or assumed for the purpose of financing all or any part of the cost of acquiring or leasing such asset, provided that such Lien attaches to such asset concurrently with or within 90 days after the acquisition or lease thereof;
- (d) any Lien on any asset of any corporation existing at the time such corporation is merged or consolidated with or into the Borrower or a Subsidiary and not created in contemplation of such event;
- (e) any Lien existing on any asset prior to the acquisition thereof by the Borrower or a Subsidiary and not created in contemplation of such acquisition;
- (f) any Lien arising out of the refinancing, extension, renewal or refunding of any Debt secured by any Lien permitted by any of the foregoing subsections of this Section, provided that the principal or face amount of such Debt is not increased and such Debt is not then secured by any additional assets;
- (g) Liens arising in the ordinary course of its business which (i) do not secure Debt or Derivatives Obligations, (ii) do not secure any obligation in an amount exceeding \$150,000,000 and (iii) do not in the aggregate materially detract from the value of its assets or materially impair the use thereof in the operation of its business;
- (h) (x) Liens on marketable equity securities securing Derivatives Obligations entered into in respect of such marketable equity securities and (y) other Liens on cash, cash equivalents and marketable securities securing Derivatives Obligations, provided that the aggregate value of the collateral subject to Liens permitted by this subclause (y) may at no time exceed \$100,000,000;
- (i) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a creditor depository institution; provided that (i) such deposit account is not a dedicated cash collateral account and is not subject to restrictions against access by the Borrower in excess

of those set forth by regulations promulgated by the Federal Reserve Board, and
(ii) such deposit account is not intended by the Borrower to provide collateral to the depository institution; and

(j) Liens not otherwise permitted by the foregoing clauses of this
Section securing Debt in an aggregate principal or face amount at any date not to exceed 5% of Consolidated Tangible Net Worth.

Section 5.10. Consolidated Tangible Net Worth. If at the last day of any fiscal quarter the ratio of Consolidated EBIT to Consolidated Interest Expense for the period of four consecutive fiscal quarters then ended is less than 6:1, Consolidated Tangible Net Worth at such date shall be greater than the Minimum Amount. For purposes of this Section 5.10, "Minimum Amount" means an amount equal to the sum of (i) \$2,800,000,000 plus (ii) an amount equal to 25% of Consolidated Net Income for each fiscal quarter of the Borrower ending after April 26, 1997 but prior to the date of determination, in each case, for which Consolidated Net Income is positive (but with no deduction on account of negative Consolidated Net Income for any fiscal quarter of the Borrower).

Section 5.11. Ratings. The Borrower has instructed S&P to disclose to any Lender or the Administrative Agent, upon request, any private rating assigned by S&P to the Borrower's senior unsecured long term debt securities. The Borrower will take all actions necessary or that the Administrative Agent or any Lender may request to ensure that any such rating will at all times be available to any Lender or the Administrative Agent, upon request.

ARTICLE 6

Defaults

Section 6.01. Events of Default. If one or more of the following events ("Events of Default") shall have occurred and be continuing:

- (a) the Borrower shall fail to pay when due any principal of any Loan or shall fail to pay within five Domestic Business Days of the due date thereof any interest, any fees or any other amount payable hereunder;
- (b) the Borrower shall fail to observe or perform any covenant contained in Sections 5.07, 5.08, and 5.10, or any covenant contained in Section 5.09, solely with respect to Liens securing Debt or Derivative Obligations;

- (c) the Borrower shall fail to observe or perform any covenant or agreement contained in this Agreement (other than those covered by subsections (a) or (b) above) for 30 days after written notice thereof has been given to the Borrower by the Administrative Agent at the request of any Lender;
- (d) any representation, warranty, certification or statement made by the Borrower in this Agreement or in any certificate, financial statement or other document delivered pursuant to this Agreement shall prove to have been incorrect in any material respect when made (or deemed made);
- (e) the Borrower or any Subsidiary shall fail to make any payment in respect of any Material Financial Obligations when due or within any applicable grace period;
- (f) any event or condition shall occur which results in the acceleration of the maturity of any Material Debt;
- (g) the Borrower or any Material Subsidiary shall commence a voluntary Insolvency Proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing;
- (h) an involuntary Insolvency Proceeding shall be commenced against the Borrower or any Material Subsidiary seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 60 days; or an order for relief shall be entered against the Borrower or any Material Subsidiary under the federal bankruptcy laws as now or hereafter in effect;
- (i) any member of the ERISA Group shall fail to pay when due an amount or amounts aggregating in excess of \$50,000,000 which it shall have become liable to pay under Title IV of ERISA; or notice of intent to terminate a Material Plan shall be filed under Title IV of ERISA by any member of the

ERISA Group, any plan administrator or any combination of the foregoing; or the PBGC shall institute proceedings under Title IV of ERISA to terminate, to impose liability (other than for premiums under Section 4007 of ERISA) in respect of, or to cause a trustee to be appointed to administer any Material Plan; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any Material Plan must be terminated; or there shall occur a complete or partial withdrawal from, or a default, within the meaning of Section 4219(c)(5) of ERISA, with respect to, one or more Multiemployer Plans which could cause one or more members of the ERISA Group to incur a current payment obligation in excess of \$50,000,000;

(j) judgments or orders for the payment of money, which individually or in the aggregate (net of applicable insurance for which the insurer has acknowledged coverage) shall exceed \$50,000,000 shall be rendered against the Borrower or any Material Subsidiary and such judgments or orders shall continue unsatisfied and unstayed for a period of 45 days; or

(k) any person or group of persons (within the meaning of Section 13 or 14 of the Securities Exchange Act of 1934, as amended) shall have acquired beneficial ownership (within the meaning of Rule 13d-3 promulgated by the Securities and Exchange Commission under said Act) of 35% or more of the outstanding shares of common stock of the Borrower; or, during any period of 12 consecutive calendar months, individuals who were directors of the Borrower on the first day of such period shall cease to constitute a majority of the board of directors of the Borrower (other than as a result of death or disability);

then, and in every such event, the Administrative Agent shall (i) if requested by the Required Lenders, by notice to the Borrower terminate the Commitments and they shall thereupon terminate, and (ii) if requested by Lenders holding more than 60% of the aggregate principal amount of the Loans, by notice to the Borrower declare the Loans (together with accrued interest thereon) to be, and the Loans shall thereupon become, immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; provided that in the case of any of the Events of Default specified in clause 6.01(g) (other than a failure generally to pay debts as they become due, or the taking of any corporate action to authorize the same) or 6.01(h) above with respect to the Borrower, without any notice to the Borrower or any other act by the Administrative Agent or the Lenders, the Commitments shall thereupon terminate and the Loans (together with accrued interest thereon) shall become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

Section 6.02. Notice of Default. The Administrative Agent shall give written notice to the Borrower under Section 6.01(c) promptly upon being requested to do so by any Lender and shall thereupon notify all the Lenders thereof.

ARTICLE 7

The Agents

Section 7.01. Appointment and Authorization. Each Lender hereby irrevocably (subject to Section 7.09) appoints, designates and authorizes each Agent to take such action on its behalf under the provisions of this Agreement and to exercise such powers and perform such duties as are expressly delegated to such Agent by the terms of this Agreement, together with such powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere in this Agreement, neither Agent shall have any duties or responsibilities, except those expressly set forth herein, nor shall either Agent have or be deemed to have any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or otherwise exist against either Agent.

Section 7.02. Delegation of Duties. Each Agent may execute any of its duties under this Agreement by or through agents, employees or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. Neither Agent shall be responsible for the negligence or misconduct of any agent or attorney-in-fact that it selects with reasonable care.

Section 7.03. Liability of Agents. None of the Agent-Related Persons shall (i) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or the transactions contemplated hereby (except for its own gross negligence or willful misconduct), or (ii) be responsible in any manner to any of the Lenders for any recital, statement, representation or warranty made by the Borrower or any Subsidiary or Affiliate, or any officer thereof, contained in this Agreement, or in any certificate, report, statement or other document referred to or provided for in, or received by either Agent under or in connection with, this Agreement, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement, or for any failure of the Borrower to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement, or to inspect the properties, books or records of the Borrower or any of its Subsidiaries or Affiliates.

Section 7.04. Reliance by Agents. Each Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to the Borrower), independent accountants and other experts selected by such Agent in good faith. Each Agent shall be fully justified in failing or refusing to take any action under this Agreement unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement in accordance with a request or consent of the Required Lenders and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Lenders.

Section 7.05. Notice of Default. Each Agent shall not be deemed to have knowledge or notice of the occurrence of any Default, except with respect to defaults in the payment of principal, interest and fees required to be paid to such Agent for the account of the Lenders, unless such Agent shall have received written notice from a Lender or the Borrower referring to this Agreement, describing such Default and stating that such notice is a "notice of default". Each Agent will notify the Lenders of its receipt of any such notice. The Administrative Agent shall take such action with respect to such Default as may be requested by the Required Lenders in accordance with Article 6; provided, however, that unless and until the Administrative Agent has received any such request, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default as it shall deem advisable or in the best interest of the Lenders.

Section 7.06. Credit Decision. Each Lender acknowledges that none of the Agent-Related Persons has made any representation or warranty to it, and that no act by either Agent hereinafter taken, including any review of the affairs of the Borrower and its Subsidiaries, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender. Each Lender represents to each Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and its Subsidiaries, and all applicable Lenders regulatory laws relating to the transactions contemplated hereby, and made its own decision to

enter into this Agreement and to extend credit to the Borrower hereunder. Each Lender also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower. Except for notices, reports and other documents expressly herein required to be furnished to the Lenders by either Agent, such Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of the Borrower which may come into the possession of any of the Agent-Related Persons.

Section 7.07. Indemnification of Agents. Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand the Agent-Related Persons (to the extent not reimbursed by or on behalf of the Borrower and without limiting the obligation of the Borrower to do so), pro rata, from and against any and all Indemnified Liabilities; provided, however, that no Lender shall be liable for the payment to the Agent-Related Persons of any portion of such Indemnified Liabilities resulting solely from such Person's gross negligence or willful misconduct. Without limitation of the foregoing, each Lender shall reimburse each Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by such Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, or any document contemplated by or referred to herein, to the extent that such Agent is not reimbursed for such expenses by or on behalf of the Borrower; provided that to the extent indemnification payments made by the Lenders pursuant to this Section 7.07 are subsequently recovered from or for the account of the Borrower, such Agent shall promptly refund such previously paid indemnification payments to the Lenders. The undertaking in this Section shall survive the payment of all obligations hereunder and the resignation or replacement of one or both Agents.

Section 7.08. Agents in Individual Capacities. Each Agent and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire equity interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with the Borrower and its Subsidiaries and Affiliates as though Citicorp USA, Inc. ("Citicorp") and Morgan Guaranty Trust Company of New York ("MORGAN")

were not Agents hereunder and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, each Agent or its Affiliates may receive information regarding the Borrower or its Affiliates (including information that may be subject to confidentiality obligations in favor of the Borrower or such Subsidiary) and acknowledge that neither Agent shall be under any obligation to provide such information to them. With respect to its Loans, each of Morgan and Citicorp shall have the same rights and powers under this Agreement as any other Lender and may exercise the same as though it were not an Agent or the Issuing Lender, and the terms "Lender" and "Lenders" include Morgan and Citicorp in their individual capacities.

Section 7.09. Successor Agents. Each Agent may resign as Agent upon 30 days' notice to the Lenders. If either Agent resigns under this Agreement, the Required Lenders, with the consent of the Borrower (such consent not to be unreasonably withheld), shall appoint from among the Lenders a successor agent for the Lenders. If no successor agent is appointed prior to the effective date of the resignation of either Agent, such Agent may appoint, after consulting with the Lenders and the Borrower, a successor agent from among the Lenders. Upon the acceptance of its appointment as successor agent hereunder, such successor agent shall succeed to all the rights, powers and duties of the retiring Agent and the term "Agent" shall include such successor agent and the retiring Agent's appointment, powers and duties as Agent shall be terminated. After any retiring Agent's resignation hereunder as Agent, the provisions of this Article 7 and Section 9.03 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement. If no successor agent has accepted appointment as Agent by the date which is 30 days following a retiring Agent's notice of resignation, the retiring Agent's resignation shall nevertheless thereupon become effective and the Lenders shall perform all of the duties of such Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above.

Section 7.10. Co-Agents. None of the Banks identified on the facing page or the signature pages of this Agreement as a "Co-Agent" shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Banks as such. Without limiting the foregoing, none of the Banks so identified as "Co-Agent" shall have or be deemed to have any fiduciary relationship with any Bank. Each Bank acknowledges that it has not relied and will not rely on any of the Banks so identified in deciding to enter into this Agreement or in taking or not taking action hereunder.

ARTICLE 8

Change in Circumstances

Section 8.01. Basis for Determining Interest Rate Unfair. If on or prior to the first day of any Interest Period for any Euro-Dollar Loan or Money Market LIBOR Loan, the Administrative Agent shall have determined that dollar deposits in the principal amounts of such Loans are not generally available in the London interbank market, or that the rates at which such dollar deposits are being offered will not adequately and fairly reflect the cost to the Lenders of making or maintaining their Euro-Dollar Loans during such Interest Period, or that reasonable means do not exist for ascertaining the London Interbank Offered Rate, the Administrative Agent shall forthwith give notice thereof to the Borrower and the Lenders, whereupon until the Administrative Agent notifies the Borrower that the circumstances giving rise to such suspension no longer exist,

(i) the obligations of the Lenders to make Euro-Dollar Loans, or to continue or convert outstanding Loans as or into Euro-Dollar Loans, shall be suspended and

(ii) each outstanding Euro-Dollar Loan shall be converted into a Base Rate Loan on the last day of the then current Interest Period applicable thereto. Unless the Borrower notifies the Administrative Agent at least two Domestic Business Days before the date of any Fixed Rate Borrowing for which a Notice of Borrowing has previously been given that it elects not to borrow on such date, (i) if such Fixed Rate Borrowing is a Euro-Dollar Borrowing, such Borrowing shall instead be made as a Base Rate Borrowing and (ii) if such Fixed Rate Borrowing is a Money Market LIBOR Borrowing, the Money Market LIBOR Loans comprising such Borrowing shall bear interest for each day from and including the first day to but excluding the last day of the Interest Period applicable thereto at the Base Rate for such day.

Section 8.02. Illegality. If, on or after the date of this Agreement, the adoption of any applicable law, rule or regulation, or any change in any applicable law, rule or regulation, or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any Lender (or its Euro-Dollar Lending Office) with any request or directive (whether or not having the force of law) of any such authority, central bank or comparable agency, shall make it unlawful or impossible for any Lender (or its Euro-Dollar Lending Office) to make, maintain or fund its Euro-Dollar Loans and such Lender shall so notify the Administrative Agent, the Administrative Agent shall forthwith give notice thereof to the other Lenders and the Borrower, whereupon until the circumstances giving rise to such suspension no longer exist (at which time such Lender shall so notify the Borrower and the Administrative Agent), the obligation of such Lender to make Euro-Dollar Loans, or to continue or convert outstanding

Loans as or into Euro-Dollar Loans, shall be suspended. Before giving any notice to the Administrative Agent pursuant to this Section, such Lender shall designate a different Euro-Dollar Lending Office if such designation will avoid the need for giving such notice and will not, in the judgment of such Lender, be otherwise disadvantageous to such Lender. If such notice is given, each Euro-Dollar Loan of such Lender then outstanding shall be converted to a Base Rate Loan either (a) on the last day of the then current Interest Period applicable to such Euro-Dollar Loan if such Lender may lawfully continue to maintain and fund such Loan as a Euro-Dollar Loan to such day or (b) immediately if such Lender shall determine that it may not lawfully continue to maintain and fund such Loan as a Euro-Dollar Loan to such day.

Section 8.03. Increased Cost and Reduced Return. (a) If on or after (x) the date hereof, in the case of any Euro-Dollar Loan or any obligation to make Euro-Dollar Loans or (y) the date of the related Money Market Quote, in the case of any Money Market Loan, the adoption of any applicable law, rule or regulation, or any change in any applicable law, rule or regulation, or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any Lender (or its Applicable Lending Office) with any request or directive (whether or not having the force of law) of any such authority, central bank or comparable agency shall impose, modify or deem applicable any reserve (including, without limitation, any such requirement imposed by the Board of Governors of the Federal Reserve System, but excluding with respect to any Euro-Dollar Loan any such requirement with respect to which such Lender is entitled to compensation during the relevant Interest Period under Section 2.16), special deposit, insurance assessment or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (or its Applicable Lending Office) or shall impose on any Lender (or its Applicable Lending Office) or on the London interbank market any other condition affecting its Fixed Rate Loans, its Note (if any) or its obligation to make Fixed Rate Loans, and the result of any of the foregoing is to increase the cost to such Lender (or its Applicable Lending Office) of making or maintaining any Fixed Rate Loan, or to reduce the amount of any sum received or receivable by such Lender (or its Applicable Lending Office) under this Agreement or under its Note (if any) with respect thereto, by an amount deemed by such Lender to be material, then, within 15 days after written demand by such Lender (with a copy to the Administrative Agent), the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender for such increased cost or reduction.

(b) If any Lender shall have determined that, after the date hereof, the adoption of any applicable law, rule or regulation regarding capital adequacy,

or any change in any such law, rule or regulation, or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on capital of such Lender (or its Parent) as a consequence of such Lender's obligations hereunder to a level below that which such Lender (or its Parent) could have achieved but for such adoption, change, request or directive (taking into consideration its policies with respect to capital adequacy) by an amount deemed by such Lender to be material, then from time to time, within 15 days after demand by such Lender (with a copy to the Administrative Agent), the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender (or its Parent) for such reduction.

(c) Each Lender will promptly notify the Borrower and the Administrative Agent of any event of which it has knowledge, occurring after the date hereof, which will entitle such Lender to compensation pursuant to this Section and will designate a different Lending Office if such designation will avoid the need for, or reduce the amount of, such compensation and will not, in the judgment of such Lender, be otherwise disadvantageous to such Lender. Any Lender claiming compensation under this Section shall provide the Borrower with a certificate setting forth the additional amount or amounts to be paid to it hereunder and in reasonable detail the event or events entitling such Lender to compensation and the method of calculation of such compensation, which shall be conclusive in the absence of manifest error. In determining such amount, such Lender may use any reasonable averaging and attribution methods. If any Lender shall have successfully contested the change in law, rule, regulation, interpretation, administration, request or directive, as the case may be, for which the Borrower has paid any amount under this Section 8.03 and as result of such contest such Lender shall have received a refund of such amount (or any portion thereof), such Lender shall refund to the Borrower such amount or portion thereof, net of any costs incurred by such Lender with respect to such contest. Nothing in the immediately preceding sentence shall be construed to require any Lender to contest any such change. If any Lender claiming any increased cost or reduction has changed its Applicable Lending Office as provided in this subsection or the Borrower has elected that the provisions of Section 8.05 shall apply to such Lender, the calculation of such increased costs or reduction payable by the Borrower to such Lender pursuant to this Section for any date after the date such change in Applicable Lending Office or such election has been made shall take into account the effect of such change or election.

Section 8.04. Taxes. (a) For the purposes of this Section, the following terms have the following meanings:

"TAXES" means any and all present or future taxes, duties, levies, imposts, deductions, charges or withholdings with respect to any payment by the Borrower pursuant to this Agreement or under any Note, and all liabilities with respect thereto, excluding (i) in the case of each Lender and the Administrative Agent, taxes imposed on its income, and franchise or similar taxes imposed on it, by a jurisdiction under the laws of which such Lender or the Administrative Agent (as the case may be) is organized or in which its principal executive office is located or, in the case of each Lender, in which its Applicable Lending Office is located and (ii) in the case of each Lender, any United States withholding tax imposed on such payments but only to the extent that such Lender is subject to United States withholding tax at the time such Lender first becomes a party to this Agreement.

"OTHER TAXES" means any present or future stamp or documentary taxes and any other excise or property taxes, or similar charges or levies, which arise from any payment made pursuant to this Agreement or under any Note or from the execution or delivery of, or otherwise with respect to, this Agreement or any Note.

(b) Any and all payments by the Borrower to or for the account of any Lender or the Administrative Agent hereunder or under any Note shall be made without deduction for any Taxes or Other Taxes; provided that, if the Borrower shall be required by law to deduct any Taxes or Other Taxes from any such payments, (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) such Lender or the Administrative Agent (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions, (iii) the Borrower shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law, (iv) the Borrower shall also pay to each Lender or the Administrative Agent for the account of such Lender, at the time interest is paid, all additional amounts which such Lender specifies as necessary to preserve the after-tax yield the Lender would have received if such Taxes or Other Taxes had not been imposed and

(v) the Borrower shall furnish to the Administrative Agent, at its address referred to in Section 9.01, the original or a certified copy of a receipt evidencing payment thereof.

(c) The Borrower agrees to indemnify each Lender and the Administrative Agent for the full amount of Taxes or Other Taxes (including, without limitation, any Taxes or Other Taxes imposed or asserted by any

jurisdiction on amounts payable under this Section) paid by such Lender or the Administrative Agent (as the case may be) and any liability (including penalties, interest and expenses) arising therefrom or with respect thereto. This indemnification shall be paid within 15 days after such Lender or the Administrative Agent (as the case may be) makes demand therefor.

(d) Each Lender organized under the laws of a jurisdiction outside the United States, on or prior to the date of its execution and delivery of this Agreement in the case of each Lender listed on the signature pages hereof and on or prior to the date on which it becomes a Lender in the case of each other Lender, and from time to time thereafter if requested in writing by the Borrower or the Administrative Agent (but only so long as such Lender remains lawfully able to do so), shall provide the Borrower and the Administrative Agent with Internal Revenue Service form 1001 or 4224, as appropriate, or any successor form prescribed by the Internal Revenue Service, certifying that such Lender is entitled to benefits under an income tax treaty to which the United States is a party which exempts the Lender from United States withholding tax or reduces the rate of withholding tax on payments of interest for the account of such Lender or certifying that the income receivable pursuant to this Agreement is effectively connected with the conduct of a trade or business in the United States.

(e) For any period with respect to which a Lender has failed to provide the Borrower with the appropriate form pursuant to Section 8.04(d) (unless such failure is due to a change in treaty, law or regulation occurring subsequent to the date on which such form originally was required to be provided), such Lender shall not be entitled to indemnification under Section 8.04(b) or (c) with respect to Taxes imposed by the United States solely as a result of such failure; provided that if a Lender, which is otherwise exempt from or subject to a reduced rate of withholding tax, becomes subject to Taxes or additional Taxes because of its failure to deliver a form required hereunder, the Borrower shall take such steps as such Lender shall reasonably request to assist such Lender to recover such Taxes or additional Taxes.

(f) If the Borrower is required to pay additional amounts to or for the account of any Lender pursuant to this Section, then such Lender will change the jurisdiction of its Applicable Lending Office if, in the sole judgment of such Lender, such change (i) will eliminate or reduce any such additional payment which may thereafter accrue and (ii) is not disadvantageous to such Lender.

Section 8.05. Base Rate Loans Substituted for Affected Fixed Rate Loans. If (i) the obligation of any Lender to make, or to continue or convert outstanding Loans as or to, Euro-Dollar Loans has been suspended pursuant to

Section 8.02 or (ii) any Lender has demanded compensation under Section 8.03 or 8.04 with respect to its Euro-Dollar Loans and the Borrower shall, by at least five Euro-Dollar Business Days' prior notice to such Lender through the Administrative Agent, have elected that the provisions of this Section shall apply to such Lender, then, unless and until the circumstances giving rise to such suspension or demand for compensation no longer exist, all Loans which would otherwise be made by such Lender as (or continued as or converted to) Euro-Dollar Loans shall instead be Base Rate Loans (on which interest and principal shall be payable contemporaneously with the related Fixed Rate Loans of the other Lenders). If such Lender notifies the Borrower that the circumstances giving rise to such suspension or demand for compensation no longer exist, the principal amount of each such Base Rate Loan shall be converted into a Euro-Dollar Loan on the first day of the next succeeding Interest Period applicable to the related Euro-Dollar Loans of the other Lenders.

Section 8.06. Substitution of Lender. If (i) the obligation of any Lender to make Euro-Dollar Loans has been suspended pursuant to Section 8.02 or

(ii) any Lender has demanded compensation under Section 8.03 or 8.04, the Borrower shall have the right, with the assistance of the Administrative Agent, to seek a mutually satisfactory substitute financial institution (which may be one or more of the Lenders) to purchase the outstanding Loans of such Lender and assume the Commitment of such Lender.

ARTICLE 9

Miscellaneous

Section 9.01. Notices. All notices, requests and other communications to any party hereunder shall be in writing (including bank wire, telex, facsimile transmission or similar writing) and shall be given to such party: (a) in the case of the Borrower or the Agents, at the applicable address, facsimile number or telex number set forth on the signature pages hereof, (b) in the case of any Lender, at its address, facsimile number or telex number set forth in its Administrative Questionnaire or (c) in the case of any party, such other address, facsimile number or telex number as such party may hereafter specify for the purpose by notice to the Administrative Agent and the Borrower. Each such notice, request or other communication shall be effective (i) if given by telex, when such telex is transmitted to the telex number specified in this Section and the appropriate answerback is received, (ii) if given by facsimile transmission, when transmitted to the facsimile number specified in this Section and confirmation of receipt is received, (iii) if given by mail, 72 hours after such communication is deposited in

the mails with first class postage prepaid, addressed as aforesaid or (iv) if given by any other means, when delivered at the address specified in this Section; provided that notices to the Administrative Agent under Article 2 or Article 8 shall not be effective until actually received by the Administrative Agent at the address specified for the Administrative Agent pursuant to this Section.

Section 9.02. No Waiver. No failure or delay by either Agent or any Lender in exercising any right, power or privilege hereunder or under any Note shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Section 9.03. Expenses; Indemnification. (a) The Borrower shall pay (i) all reasonable out-of-pocket expenses of the Agents, including (without duplication) the fees and disbursements of special counsel for the Agents, in connection with the preparation and administration of this Agreement, any waiver or consent hereunder or any amendment hereof or any Default or alleged Default hereunder and (ii) if an Event of Default occurs, all out-of-pocket expenses incurred by each Agent and each Lender, including (without duplication) the fees and disbursements of outside counsel and the allocated cost of inside counsel, in connection with such Event of Default and collection, bankruptcy, insolvency and other enforcement proceedings resulting therefrom.

(b) The Borrower agrees to indemnify each Agent and each Lender, their respective affiliates and the respective directors, officers, agents and employees of the foregoing (each an "Indemnatee") and hold each Indemnatee harmless from and against any and all liabilities, losses, damages, costs and expenses of any kind, including, without limitation, the reasonable fees and disbursements of counsel, which may be incurred by such Indemnatee in connection with any investigative, administrative or judicial proceeding (whether or not such Indemnatee shall be designated a party thereto and whether or not such proceeding is initiated by a party to this Agreement) brought or threatened relating to or arising out of this Agreement or any actual or proposed use of proceeds of Loans hereunder (collectively, "Indemnified Liabilities"); provided that no Indemnatee shall have the right to be indemnified hereunder for such Indemnatee's own gross negligence or willful misconduct as determined by a court of competent jurisdiction.

Section 9.04. Sharing of Set-offs. Each Lender agrees that if it shall, by exercising any right of set-off or counterclaim or otherwise, receive payment of a proportion of the aggregate amount of principal and interest due with respect to

any Loan made by it which is greater than the proportion received by any other Lender in respect of the aggregate amount of principal and interest due with respect to any Loans made by such other Lender, the Lender receiving such proportionately greater payment shall purchase such participations in the Loans made by the other Lenders and such other adjustments shall be made, as may be required so that all such payments of principal and interest with respect to the Loans made by the Lenders shall be shared by the Lenders pro rata; provided that nothing in this Section shall impair the right of any Lender to exercise any right of set-off or counterclaim it may have and to apply the amount subject to such exercise to the payment of indebtedness of the Borrower other than its indebtedness hereunder. The Borrower agrees, to the fullest extent it may effectively do so under applicable law, that any holder of a participation in a Loan whether or not acquired pursuant to the foregoing arrangements, may exercise rights of set-off or counterclaim and other rights with respect to such participation as fully as if such holder of a participation were a direct creditor of the Borrower in the amount of such participation.

Section 9.05. Right of Set-off. Upon (i) the occurrence and during the continuance of any Event of Default and (ii) the making of the request specified by Section 6.01 to direct the Agent to declare the Loans due and payable pursuant to the provisions of Section 6.01, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Lender or such Affiliate to or for the credit or the account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing under this Agreement and the Loans made by such Lender, whether or not such Lender shall have made any demand under this Agreement and although such obligations may be unmatured. Each Lender agrees promptly to notify the Borrower after any such set off and application, provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of each Lender and its Affiliates under this Section are in addition to other rights and remedies (including, without limitation, other rights of set-off) that such Lender and its Affiliates may have.

Section 9.06. Amendments and Waivers. Any provision of this Agreement or the Notes may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by the Borrower and the Required Lenders (and, if the rights or duties of either Agent are affected thereby, by such Agent); provided that no such amendment or waiver shall, unless signed by all the Lenders, (i) except as contemplated by Section 2.15, increase or decrease the Commitment of any Lender (except for a ratable decrease in the

Commitments of all Lenders) or subject any Lender to any obligation in addition to the obligations to which such Lender is subject hereunder on the Effective Date, (ii) reduce the principal of or rate of interest on any Loan or any fees hereunder, (iii) postpone the date fixed for any payment of principal of or interest on any Loan or any interest thereon or any fees hereunder or for any scheduled termination of any Commitment or (iv) change the percentage of the Commitments or of the aggregate unpaid principal amount of the Loans, or the number of Lenders, which shall be required for the Lenders or any of them to take any action under this Section or any other provision of this Agreement.

Section 9.07. Successors and Assigns. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that the Borrower may not assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of all Lenders.

(b) Any Lender may at any time grant to one or more Lenders or other institutions (each a "Participant") participating interests in its Commitment or any or all of its Loans. In the event of any such grant by a Lender of a participating interest to a Participant, whether or not upon notice to the Borrower and the Agents, such Lender shall remain responsible for the performance of its obligations hereunder, and the Borrower and the Agents shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement pursuant to which any Lender may grant such a participating interest shall provide that such Lender shall retain the sole right and responsibility to enforce the obligations of the Borrower hereunder including, without limitation, the right to approve any amendment, modification or waiver of any provision of this Agreement; provided that such participation agreement may provide that such Lender will not agree to any modification, amendment or waiver of this Agreement described in clause (i), (ii), or (iii) of Section 9.06 without the consent of the Participant. The Borrower agrees that each Lender shall be entitled to the benefits of Section 2.13 and Article 8 without regard to whether it has granted any participating interests, and that all amounts payable to a Lender for the account of a Participant under Section 2.13 and Article 8 shall be determined as if such Lender had not granted a participating interest to such Participant. An assignment or other transfer which is not permitted by subsection (c) or (d) below shall be given effect for purposes of this Agreement only to the extent of a participating interest granted in accordance with this subsection (b).

(c) Any Lender may at any time assign to one or more Eligible Assignees all, or a proportionate part (equivalent to an initial Commitment of not

less than \$10,000,000) of all, of its rights and obligations under this Agreement and the Notes, and each such Eligible Assignee shall assume such rights and obligations, pursuant to an Assignment and Assumption Agreement in substantially the form of Exhibit G hereto executed by such Eligible Assignee and such transferor Lender, with (and subject to) the subscribed consent of the Borrower and the Administrative Agent (which consents shall not be unreasonably withheld); provided that if an Eligible Assignee is an Affiliate of such transferor Lender or was a Lender immediately prior to such assignment, no such consent shall be required; and provided further that such assignment may, but need not, include rights of the transferor Lender in respect of outstanding Money Market Loans. Upon execution and delivery of such instrument and payment by such Eligible Assignee to such transferor Lender of an amount equal to the purchase price agreed between such transferor Lender and such Eligible Assignee, such Eligible Assignee shall be a Lender party to this Agreement and shall have all the rights and obligations of a Lender with a Commitment as set forth in such instrument of assumption, and the transferor Lender shall be released from its obligations hereunder to a corresponding extent, and no further consent or action by any party shall be required. Upon the consummation of any assignment pursuant to this subsection (c), the transferor Lender, the Administrative Agent and the Borrower shall make appropriate arrangements so that, if required, a new Note is issued to the Eligible Assignee. In connection with any such assignment, the transferor Lender shall pay to the Administrative Agent an administrative fee for processing such assignment in the amount of \$2,500. If the Eligible Assignee is not incorporated under the laws of the United States of America or a state thereof, it shall deliver to the Borrower and the Agent certification as to exemption from deduction or withholding of any United States federal income taxes in accordance with Section 8.04.

(d) Any Lender may at any time assign all or any portion of its rights under this Agreement and the Notes to a Federal Reserve Bank. No such assignment shall release the transferor Lender from its obligations hereunder.

(e) No Eligible Assignee, Participant or other transferee of any Lender's rights shall be entitled to receive any greater payment under Section 8.03 or 8.04 than such Lender would have been entitled to receive with respect to the rights transferred, unless such transfer is made with the Borrower's prior written consent or by reason of the provisions of Section 8.02, 8.03 or 8.04 requiring such Lender to designate a different Applicable Lending Office under certain circumstances or at a time when the circumstances giving rise to such greater payment did not exist.

(f) The Administrative Agent, on behalf of the Borrower, shall maintain at the address of the Administrative Agent a copy of each Assignment and

Assumption Agreement delivered to it and a record of the names and addresses of the Lenders and the Commitments of and principal amounts of the Loans owing to, each Lender from time to time. Such record shall be conclusive, in the absence of manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded as the owner of a Loan or other obligation hereunder as the owner thereof for all purposes of this Agreement, notwithstanding any notice to the contrary or anything to the contrary in this Agreement. Any assignment of any Loan or other right or obligation hereunder shall be effective, in the absence of manifest error, only upon appropriate records with respect thereto being made by the Administrative Agent, notwithstanding anything to the contrary in this Agreement. Such records shall be available for inspection by the Borrower or any Lender at any reasonable time and from time to time upon reasonable prior notice.

Section 9.08. Collateral. Each of the Lenders represents to each Agent and each of the other Lenders that it in good faith is not relying upon any "margin stock" (as defined in Regulation U) as collateral in the extension or maintenance of the credit provided for in this Agreement.

Section 9.09. Governing Law; Submission to Jurisdiction. This Agreement and each Note shall be governed by and construed in accordance with the laws of the State of New York, without reference to its conflicts of law principles. The Borrower hereby submits to the nonexclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York State court sitting in New York City for purposes of all legal proceedings arising out of or relating to this Agreement or the transactions contemplated hereby. The Borrower irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient forum.

Section 9.10. Counterparts; Integration; Effectiveness. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement constitutes the entire agreement and understanding among the parties hereto and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof. This Agreement shall become effective upon receipt by the Documentation Agent of counterparts hereof signed by each of the parties hereto (or, in the case of any party as to which an executed counterpart shall not have been received, receipt by the Documentation Agent in form satisfactory to it of telegraphic, telex, facsimile

or other written confirmation from such party of execution of a counterpart hereof by such party).

Section 9.11. Consequences of Effectiveness; Transitional Provisions.

(a) On the Effective Date, the commitments under the Existing Agreement shall terminate without further action by any party thereto. The Administrative Agent will promptly notify each of the other parties hereto and to the Existing Agreement of the effectiveness of this Agreement.

(b) Concurrently with the effectiveness of this Agreement, the Borrower shall (i) prepay in full (including accrued and unpaid interest thereon to, but excluding, the Effective Date) (x) all "Money Market Loans" outstanding under the Existing Agreement made by "Banks" under the Existing Agreement which are not Lenders hereunder and (y) all Committed Loans outstanding under the Existing Agreement and (ii) surrender, or cause to be surrendered, for cancellation any "Letters of Credit" issued and outstanding under the Existing Agreement. Any "Money Market Loans" outstanding under the Existing Agreement on the Effective Date made by Lenders parties to this Agreement shall remain outstanding as Money Market Loans hereunder on the terms previously established with respect thereto under the Existing Agreement. Concurrently with the effectiveness of this Agreement, the Borrower shall pay all accrued and unpaid letter of credit and facility fees under the Existing Agreement to, but excluding, the Effective Date.

(c) The Lenders which are parties to the Existing Agreement, comprising the "Required Banks" as defined therein, hereby waive any requirement of notice of termination of the "Commitments" as defined therein pursuant to Section 2.09 thereof and any restriction on prepayment of "Money Market Loans" as defined therein to the extent necessary to give effect to the subsections (a) and (b) above, provided that any such prepayment of such Money Market Loans shall be subject to Section 2.13 of the Existing Agreement.

Section 9.12. WAIVER OF JURY TRIAL. EACH OF THE BORROWER, THE AGENTS AND THE LENDERS HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 9.13. Confidentiality. Each of the Agents and the Lenders shall keep confidential any information provided by Borrower or any Subsidiary or Affiliate of the Borrower and clearly identified as confidential; provided that

nothing herein shall prevent any Agent or any Lender from disclosing such information (i) to its officers, directors, employees, agents, attorneys, auditors (internal or independent), accountants and Affiliates who have a need to know such information in accordance with customary banking practices and who receive such information having been made subject to the restrictions set forth in this Section, (ii) upon the order of a court or administrative agency, (iii) upon request or demand of any regulatory agency or authority having jurisdiction over such party and authority to compel disclosure of such information, (iv) which has become publicly available without breach of any agreement between the parties hereto, including this Agreement, (v) as necessary for the exercise of any remedy under this Agreement, (vi) subject to provisions similar to those contained in this Section, to any prospective Participant or Eligible Assignee, (vii) when required to do so in accordance with the provisions of any applicable law, (viii) to the extent reasonably required in connection with any litigation or proceeding between the Borrower and any Agent, any Lender or their respective Affiliates or (ix) as to any Lender or any of its Affiliates, as expressly permitted under the terms of any document or agreement regarding confidentiality to which the Borrower or any Subsidiary is party or is deemed party with such Lender or such Affiliate.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

CISCO SYSTEMS, INC.

By: [SIG]

Name: David Rogan
Title: Treasurer
Address: Cisco Systems, Inc.
170 West Tasman Drive
San Jose, CA 95134
Telephone: 408-526-8211
Facsimile: 408-526-4545
Website:
<http://www.cisco.com>
Attention: Treasurer

CITICORP USA, INC., as Administrative Agent

By:
Name:

Title:
Address: Citibank, N.A.
1 Court Street/7th Floor,
Zone 1
Long Island City, NY 11120
Telephone: 718-248-4520
Facsimile: 718-248-4844
Attention: Christopher Di Biase

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

CISCO SYSTEMS, INC.

By: _____

Name: David Rogan
Title: Treasurer
Address: Cisco Systems, Inc.
170 West Tasman Drive
San Jose, CA 95134
Telephone: 408-526-8211
Facsimile: 408-526-4545
Website:
<http://www.cisco.com>
Attention: Treasurer

CITICORP USA, INC., as Administrative
Agent

By: [SIG] _____

Name: Anita J. Brickell
Title: Attorney-in-Fact
Address: Citibank, N.A.
1 Court Street/7th Floor,
Zone 1
Long Island City, NY 11120

Telephone: 718-248-4520 Facsimile: 718-248-4844 Attention: Christopher Di Biase

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CITICORP USA, INC., as Administrative Agent

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Zone 1
Long Island City, NY 11120
Telephone: 718-248-4520
Facsimile: 718-248-4844
Attention: Christopher Di Biase

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

CISCO SYSTEMS, INC.

By: _____

Name: David Rogan
Title: Treasurer
Address: Cisco Systems, Inc.
170 West Tasman Drive
San Jose, CA 95134
Telephone: 408-526-8211
Facsimile: 408-526-4545
Website:
<http://www.cisco.com>
Attention: Treasurer

CITICORP USA, INC., as Administrative
Agent

By: [SIG] _____

Name: Anita J. Brickell
Title: Attorney-in-Fact
Address: Citibank, N.A.
1 Court Street/7th Floor,
Zone 1
Long Island City, NY 11120

Telephone: 718-248-4520 Facsimile: 718-248-4844 Attention: Christopher Di Biase

MORGAN GUARANTY TRUST

COMPANY OF NEW YORK, as
Documentation Agent

By: [SIG]

Name: Jeffrey Hwang
Title: Vice President
Address: J.P. Morgan
60 Wall Street
New York, NY 10260
Telex: 177615 MGT UT

Telephone: 212-648-7638 Facsimile: 212-648-5014 Attention:

**BANK OF AMERICA NATIONAL
TRUST AND SAVINGS
ASSOCIATION, as Co-Agent**

By:

Name:

Title:
Address:
Telephone:
Facsimile:
Attention:

**THE CHASE MANHATTAN BANK, as
Co-Agent**

By:

Name:

Title:
Address: 270 Park Avenue, 10th Floor
New York, NY 10017
Telephone: 212-270-5730
Facsimile: 212-270-5172
Attention:

**MORGAN GUARANTY TRUST
COMPANY OF NEW YORK, as
Documentation Agent**

By:

Name:

Title:
Address: J.P. Morgan
60 Wall Street
New York, NY 10260
Telex: 177615 MGT UT
Telephone: 212-648-7638
Facsimile: 212-648-5014
Attention:

**BANK OF AMERICA NATIONAL
TRUST AND SAVINGS
ASSOCIATION, as Co-Agent**

By: [SIG]

Name: Roger J. Fleischmann Jr.

Title: Vice President
Address: 555 California St., 41st Floor
San Francisco, CA 94104
Telephone: 415-622-4571
Facsimile: 415-622-2514
Attention: Michael McCutchin

**THE CHASE MANHATTAN BANK, as
Co-Agent**

By:

Name:

Title:
Address: 270 Park Avenue, 10th Floor
New York, NY 10017
Telephone: 212-270-5730
Facsimile: 212-270-5172
Attention:

**MORGAN GUARANTY TRUST
COMPANY OF NEW YORK, as
Documentation Agent**

By:

Name:

Title:
Address: J.P. Morgan
60 Wall Street
New York, NY 10260
Telex: 177615 MGT UT
Telephone: 212-648-7638
Facsimile: 212-648-5014
Attention:

**BANK OF AMERICA NATIONAL
TRUST AND SAVINGS
ASSOCIATION, as Co-Agent**

By:

Name:

Title:
Address:
Telephone:
Facsimile:
Attention:

THE CHASE MANHATTAN BANK, as
Co-Agent

By: [SIG]

Name: Joan F. Garvin
Title: Managing Director
Address: 270 Park Avenue, 10th Floor
New York, NY 10017

Telephone: 212-270-5730 Facsimile: 212-270-5172 Attention:

Commitments:

\$45,000,000

MORGAN GUARANTY TRUST
COMPANY OF NEW YORK

By: [SIG]

Name: Jeffrey Hwang
Title: Vice President

\$45,000,000

CITICORP USA, INC.

By:

Name:

Title:

\$40,000,000

BANK OF AMERICA NATIONAL
TRUST AND SAVINGS
ASSOCIATION

By:

Name:

Title:

\$40,000,000

THE CHASE MANHATTAN BANK

By:

Name:

Title:

Commitments:

\$45,000,000

MORGAN GUARANTY TRUST
COMPANY OF NEW YORK

By:

Name:

Title:

\$45,000,000

CITICORP USA, INC.

By: [SIG]

Name: Anita J. Brickell

Title: Attorney-in-Fact

\$40,000,000

BANK OF AMERICA NATIONAL
TRUST AND SAVINGS
ASSOCIATION

By:

Name:

Title:

\$40,000,000

THE CHASE MANHATTAN BANK

By:

Name:

Title:

Commitments:

\$45,000,000

MORGAN GUARANTY TRUST
COMPANY OF NEW YORK

By:

Name:

Title:

\$45,000,000

CITICORP USA, INC.

By:

Name:

Title:

\$40,000,000

BANK OF AMERICA NATIONAL
TRUST AND SAVINGS
ASSOCIATION

By: [SIG]

Name: Roger J. Fleischmann, Jr.

Title: Vice President

\$40,000,000

THE CHASE MANHATTAN BANK

By:

Name:

Title:

Commitments:

\$45,000,000

MORGAN GUARANTY TRUST
COMPANY OF NEW YORK

By:

Name:

Title:

\$45,000,000

CITICORP USA, INC.

By:

Name:

Title:

\$40,000,000

BANK OF AMERICA NATIONAL
TRUST AND SAVINGS
ASSOCIATION

By:

Name:

Title:

\$40,000,000

THE CHASE MANHATTAN BANK

By: [SIG]

Name: Joan F. Garvin

Title: Vice President

\$30,000,000

BANK OF TOKYO-MITSUBISHI TRUST
COMPANY

By: [SIG]

Name: Michael C. Irwin
Title: Vice President

\$30,000,000

DEUTSCHE BANK AG, NEW YORK
BRANCH AND/OR CAYMAN
ISLANDS BRANCH

By:

Name:
Title:

By:

Name:

Title:

\$30,000,000

MARINE MIDLAND BANK

By:

Name:

Title:

\$30,000,000

ROYAL BANK OF CANADA

By:

Name:
Title:

\$30,000,000

BANK OF TOKYO-MITSUBISHI TRUST
COMPANY

By:

Name:

Title:

\$30,000,000

DEUTSCHE BANK AG, NEW YORK
BRANCH AND/OR CAYMAN
ISLANDS BRANCH

By: [SIG]

Name: Ralf Hoffmann
Title: Vice President

By: [SIG]

Name: Andreas Neumeier
Title: Vice President

\$30,000,000

MARINE MIDLAND BANK

By:

Name:

Title:

\$30,000,000

ROYAL BANK OF CANADA

By:

Name:

Title:

\$30,000,000

BANK OF TOKYO-MITSUBISHI TRUST
COMPANY

By: _____
Name:

Title:

\$30,000,000

DEUTSCHE BANK AG, NEW YORK
BRANCH AND/OR CAYMAN
ISLANDS BRANCH

By: _____
Name:
Title:

Title:

\$30,000,000

MARINE MIDLAND BANK

By: [SIG]

Name: William M. Holland
Title: Vice President

\$30,000,000

ROYAL BANK OF CANADA

By: _____
Name:

Title:

\$30,000,000

BANK OF TOKYO-MITSUBISHI TRUST
COMPANY

By: _____
Name:

Title:

\$30,000,000

DEUTSCHE BANK AG, NEW YORK
BRANCH AND/OR CAYMAN
ISLANDS BRANCH

By: _____
Name:
Title:

Title:

\$30,000,000

MARINE MIDLAND BANK

By: _____
Name:

Title:

\$30,000,000

ROYAL BANK OF CANADA

By: [SIG] _____
Name: Michael A. Cole
Title: Manager

\$30,000,000

THE SUMITOMO BANK, LIMITED

By: [SIG]

Name: Kozo Masaki
Title: General Manager

\$30,000,000

UNION BANK OF SWITZERLAND

By:

Name:
Title:

By:

Name:

Title:

\$25,000,000

BANKBOSTON, N.A.

By:

Name:

Title:

\$25,000,000

THE BANK OF NEW YORK

By:

Name:

Title:

\$30,000,000

THE SUMITOMO BANK, LIMITED

By: _____

Name:

Title:

\$30,000,000

UNION BANK OF SWITZERLAND

By: [SIG] _____

Name: Hamilton W. Bullard
Title: Assistant Treasurer

By: [SIG] _____

Name: Bruce T. Richards
Title: Managing Director

\$25,000,000

BANKBOSTON, N.A.

By: _____

Name:

Title:

\$25,000,000

THE BANK OF NEW YORK

By: _____

Name:
Title:

\$30,000,000

THE SUMITOMO BANK, LIMITED

By:

Name:

Title:

\$30,000,000

UNION BANK OF SWITZERLAND

By:

Name:

Title:

Title:

By:

Name:

\$25,000,000

BANKBOSTON, N.A.

By: [SIG]

Name: Daniel G. Head, Jr.

Title: Vice President

\$25,000,000

THE BANK OF NEW YORK

By:

Name:

Title:

\$30,000,000

THE SUMITOMO BANK, LIMITED

By: _____

Name:

Title:

\$30,000,000

UNION BANK OF SWITZERLAND

By: _____

Name:

Title:

Title:

\$25,000,000

BANKBOSTON, N.A.

By: _____

Name:

Title:

\$25,000,000

THE BANK OF NEW YORK

By: [SIG] _____

Name: Bruce C. Miller

Title: Senior Vice President

\$25,000,000

CREDITO ITALIANO SpA

By: [SIG]

Name: Harmon P. Butler Title: First Vice President & Deputy Manager

By: [SIG]

Name: Saiyed A. Abbas Title: Assistant Vice President

\$25,000,000

THE SUMITOMO TRUST & BANKING
CO., LTD., LOS ANGELES AGENCY

By:

Name:

Title:

\$25,000,000

MELLON BANK, N.A.

By:

Name:
Title:

\$25,000,000

CREDITO ITALIANO SpA

By:
Name:

Title:

By:

Name:

Title:

\$25,000,000

THE SUMITOMO TRUST & BANKING
CO., LTD., LOS ANGELES AGENCY

By: [SIG]

Name: Ninoos Y. Benjamin
Title: Vice President

\$25,000,000

MELLON BANK, N.A.

By:

Name:
Title:

\$25,000,000

CREDITO ITALIANO SpA

By:
Name:

Title:

By:

Name:

Title:

\$25,000,000

THE SUMITOMO TRUST & BANKING
CO., LTD., LOS ANGELES AGENCY

By: _____

Name:

Title:

\$25,000,000

MELLON BANK, N.A.

By: [SIG]

Name: Sean C. Gannon
Title: Assistant Vice President

\$25,000,000

WELLS FARGO BANK, N.A.

By: [SIG]

Name: Edith R. Lim
Title: Vice President

By: [SIG]

Name: Todd W. Wuertz
Title: Assistant Vice President

Total: \$500,000,000

PRICING SCHEDULE

Each of "Euro-Dollar Margin" and "Facility Fee Rate" for any date, the rate set forth in the column below such term and in the row corresponding to the Pricing Level that applies at such date:

PRICING LEVEL	EURO-DOLLAR MARGIN	FACILITY FEE RATE
Level I+	.1100%	.0500%
Level I	.1200%	.0550%
Level II+	.1200%	.0550%
Level II	.1275%	.0600%
Level III+	.1275%	.0600%
Level III	.1300%	.0700%
Level IV+	.1300%	.0700%
Level IV	.1700%	.0800%
Level V+	.1900%	.1100%
Level V	.2500%	.1250%
Level VI	.3500%	.2000%

For purposes of this Schedule, the following terms have the following meanings:

"APPLICABLE NET INCOME" means, at any date, Consolidated Net Income for the period of four consecutive fiscal quarters reflected in the then most recent certificate delivered by the Borrower pursuant to Section 5.01(c); provided that for any period during which a Default exists under Section 5.01(c), Applicable Net Income shall be deemed to be less than \$1,000,000,000.

"APPLICABLE NET QUALIFYING ASSETS" means, at any date, the amount of Net Qualifying Assets reflected in the then most recent certificate delivered by the Borrower pursuant to Section 5.01(c); provided that for any period during which a Default exists under Section 5.01 (c), Applicable Net Qualifying Assets shall be deemed to be less than \$2,000,000,000.

"LEVEL I+ PRICING" applies at any date if, at such date (a) the Borrower's senior unsecured long-term debt securities are rated A+ or higher by S&P or A1 or higher by Moody's (subject to the concluding paragraph of this Schedule) and (b) Applicable Net Income is \$2,500,000,000 or greater and Applicable Net Qualifying Assets is \$5,000,000,000 or greater and (c) such date is an Upgrade Date.

"LEVEL I PRICING" applies at any date if, at such date, Test (a) for Level I+ Pricing is met but either Test (b) or Test (c) is not.

"LEVEL II+ PRICING" applies at any date if, at such date (i) (a) the Borrower's senior unsecured long-term debt securities are rated A or higher by S&P or A2 or higher by Moody's (subject to the concluding paragraph of this Schedule) and (b) Applicable Net Income is \$2,000,000,000 or greater and Applicable Net Qualifying Assets is \$4,000,000,000 or greater and (c) such date is an Upgrade Date and (ii) Test (a) for Level I+ Pricing is not met.

"LEVEL II PRICING" applies at any date if, at such date, Test (a) for Level II+ Pricing is met but either Test (b) or Test (c) is not.

"LEVEL III+ PRICING" applies at any date if, at such date, (i)(a) the Borrower's senior unsecured long-term debt securities are rated A- or higher by S&P or A3 or higher by Moody's (subject to the concluding paragraph of this Schedule) and (b) Applicable Net Income is \$1,500,000,000 or greater and Applicable Net Qualifying Assets is \$3,000,000,000 or greater and (c) such date is an Upgrade Date and (ii) Test (a) for Level II+ Pricing is not met.

"LEVEL III PRICING" applies at any date if, at such date, Test (a) for Level III+ Pricing is met but either Test (b) or Test (c) is not.

"LEVEL IV+ PRICING" applies at any date if, at such date, (i)(a) the Borrower's senior unsecured long-term debt securities are rated BBB+ or higher by S&P or Baa1 or higher by Moody's (subject to the concluding paragraph of this Schedule) and (b) Applicable Net Income is \$1,000,000,000 or greater and Applicable Net Qualifying Assets is \$2,500,000,000 or greater and (c) such date is an Upgrade Date and (ii) Test (a) Level III+ Pricing is not met.

"LEVEL IV PRICING" applies at any date if, at such date, Test (a) for Level IV+ Pricing is met but either Test (b) or Test (c) is not.

"LEVEL V+ PRICING" applies at any date if, at such date, (i)(a) the Borrower's senior unsecured long-term debt securities are rated BBB- or higher by S&P or Baa3 or higher by Moody's (subject to the concluding paragraph of this Schedule) and (b) Applicable Net Income is \$1,000,000,000 or greater and Applicable Net Qualifying Assets is \$2,000,000,000 or greater and (c) such date is and Upgrade Date and (ii) Test (a) for Level IV+ Pricing is not met.

"LEVEL V PRICING" applies at any date if, at such date, Test (a) for Level V+ Pricing is met but either Test (b) or Test (c) is not.

"LEVEL VI PRICING" applies at any date if, at such date, no other Pricing Level applies.

"MOODY'S" means Moody's Investors Service, Inc. and its successors.

"PRICING LEVEL" refers to each of the respective levels set forth in the column headed "Pricing Level" in the table above.

"S&P" means Standard & Poor's Ratings Services and its successors.

"TEST" means the respective criteria set forth in clause (or subclause) (a) or (b) in the definition of a particular Pricing Level above.

"UPGRADE DATE" means any date after the date on which the Borrower delivers the documents required to be delivered under Section 5.01 (c) for the fiscal quarter ending January 24, 1998.

The credit ratings to be utilized for purposes of this Schedule are those assigned by S&P or Moody's to the senior unsecured long-term debt securities of the Borrower without third-party credit enhancement (including without limitation any private rating) and any rating assigned to any other debt security of the Borrower shall be disregarded. The rating in effect at any date is that in effect at the close of business on such date. In the case of split ratings from S&P and Moody's, the rating to be used to determine which Pricing Level is the higher of the two (e.g. A-/Baa1 meets Test (a) for Level III+ Pricing), provided that if the split is more than one full category, the average (or the higher of two intermediate ratings) shall be used (e.g., A+/A3 meets Test (a) for Level II+ Pricing but not for Level I+ Pricing).

EXHIBIT A - Note

NOTE

New York, New York
_____, 199_

For value received, CISCO SYSTEMS, INC., a California corporation (the "Borrower"), promises to pay to the order of _____ (the "Lender"), for the account of its Applicable Lending Office, the unpaid principal amount of each Loan made by the Lender to the Borrower pursuant to the Credit Agreement referred to below on the maturity date provided for in the Credit Agreement. The Borrower promises to pay interest on the unpaid principal amount of each such Loan on the dates and at the rate or rates provided for in the Credit Agreement. All such payments of principal and interest shall be made in lawful money of the United States in Federal or other immediately available funds at the office of Citicorp USA, Inc., 1 Court Street, 7th Floor, Zone 1, Long Island City, NY, 11120.

All Loans made by the Lender, the respective types and maturities thereof and all repayments of the principal thereof shall be recorded by the Lender and, if the Lender so elects in connection with any transfer or enforcement hereof, appropriate notations to evidence the foregoing information with respect to each such Loan then outstanding may be endorsed by the Lender on the schedule attached hereto, or on a continuation of such schedule attached to and made a part hereof; provided that the failure of the Lender to make any such recordation or endorsement shall not affect the obligations of the Borrower hereunder or under the Credit Agreement.

This note is one of the Notes referred to in the Credit Agreement dated as of July 2, 1997 among Cisco Systems, Inc., the banks listed on the signature pages thereof, Citicorp USA, Inc., as Administrative Agent, and Morgan Guaranty Trust Company of New York, as Documentation Agent (as the same may be amended from time to time, the "CREDIT AGREEMENT"). Terms defined in the Credit Agreement are used herein with the same meanings. Reference is made to

the Credit Agreement for provisions for the prepayment hereof and the acceleration of the maturity hereof.

CISCO SYSTEMS, INC.

By _____

Name:

Title:

EXHIBIT B - Money Market Quote Request

Form of Money Market Quote Request

[Date]

To: Citicorp USA, Inc. (the "Administrative Agent")

From: Cisco Systems, Inc.

Re: Credit Agreement (the "Credit Agreement") dated as of July 2, 1997 among Cisco Systems, Inc., the Lenders listed on the signature pages thereof, Citicorp USA, Inc., the Administrative Agent, and Morgan Guaranty Trust Company of New York, as Documentation Agent

We hereby give notice pursuant to Section 2.03 of the Credit Agreement that we request Money Market Quotes for the following proposed Money Market Borrowing(s):

Date of Borrowing: _____

Principal Amount(1) Interest Period(2)

\$

(1) Amount must be \$10,000,000 or a larger multiple of \$1,000,000.

(2) Not less than one month (LIBOR Auction) or not less than 14 days or more than 366 days (Absolute Rate Auction), subject to the provisions of the definition of Interest Period. No more than three different Interest Periods.

Such Money Market Quotes should offer a Money Market [Margin] [Absolute Rate]. [The applicable base rate is the London Interbank Offered Rate.] Terms used herein have the meanings assigned to them in the Credit Agreement.

CISCO SYSTEMS, INC.

By _____
Name:
Title:

EXHIBIT C - Invitation for Money Market Quotes

Form of Invitation for Money Market Quotes

To: [Name of Lender]

Re: Invitation for Money Market Quotes to [Name of Borrower] (the "Borrower")

Pursuant to Section 2.03 of the Credit Agreement dated as of July 2, 1997 among Cisco Systems, Inc., the Lenders parties thereto, Citicorp USA, Inc., as Administrative Agent, Morgan Guaranty Trust Company of New York, as Documentation Agent, we are pleased on behalf of the Borrower to invite you to submit Money Market Quotes to the Borrower for the following proposed Money Market Borrowing(s):

Date of Borrowing: _____

Principal Amount Interest Period

\$

Such Money Market Quotes should offer a Money Market [Margin] [Absolute Rate]. [The applicable base rate is the London Interbank Offered Rate.]

Please respond to this invitation by no later than [1:00 P.M.] [9:30 A.M.] (San Francisco, California time) on [date].

Citicorp USA, Inc., as Administrative Agent

By _____
Authorized Officer

EXHIBIT D - Money Market Quote

Form of Money Market Quote

To: Citicorp USA, Inc., as Administrative Agent

Re: Money Market Quote to Cisco Systems, Inc. (the "Borrower")

In response to your invitation on behalf of the Borrower dated _____, 19__, we hereby make the following Money Market Quote on the following terms:

1. Quoting Lender: _____

2. Person to contact at Quoting Lender:

3. Date of Borrowing: _____*

4. We hereby offer to make Money Market Loan(s) in the following principal amounts, for the following Interest Periods and at the following rates:

Principal Amount**	Interest Period***	Money Market [Margin****]	[Absolute Rate*****]
\$			
\$			

[Provided, that the aggregate principal amount of Money Market Loans for which the above offers may be accepted shall not exceed \$_____.]**

* As specified in the related Invitation.

** Principal amount bid for each Interest Period may not exceed principal amount requested. Specify aggregate limitation if the sum of the individual offers exceeds the

(notes continued on following page)

We understand and agree that the offer(s) set forth above, subject to the satisfaction of the applicable conditions set forth in the Credit Agreement dated as of July 2, 1997 among Cisco Systems, Inc., the Lenders listed on the signature pages thereof, yourselves, as Administrative Agent, and Morgan Guaranty Trust Company of New York, as Documentation Agent irrevocably obligates us to make the Money Market Loan (s) for which any offer(s) are accepted, in whole or in part.

Very truly yours,

[NAME OF LENDER]

Dated: _____

By: _____
Authorized Officer

amount the Lender is willing to lend. Bids must be made for \$10,000,000 or a larger multiple of \$1,000,000.

*** Not less than one month or not less than 7 days or more than 365 days, as specified in the related Invitation. No more than five bids are permitted for each Interest Period.

**** Margin over or under the London Interbank Offered Rate determined for the applicable Interest Period. Specify percentage (to the nearest 1/10,000 of 1%) and specify whether "PLUS" or "MINUS".

***** Specify rate of interest per annum (to the nearest 1/10,000th of 1%).

EXHIBIT E - Opinion of Counsel for the Borrower

**OPINION OF
COUNSEL FOR THE BORROWER**

[LETTERHEAD OF BROBECK, PHLEGER & HARRISON LLP]

_____, 1997

To the Agents and the Lenders
party to the Credit Agreement
referred to below

Re: Cisco Systems, Inc.

Ladies and Gentlemen:

This opinion letter is furnished to you pursuant to Section 3.01(b) of the Credit Agreement dated as of July 2, 1997 (the "CREDIT AGREEMENT") among Cisco Systems, Inc., a California corporation, as borrower (the "COMPANY"), the Lenders party thereto (collectively, the "LENDERS"), Citicorp USA, Inc., as Administrative Agent, Morgan Guaranty Trust Company of New York, as Documentation Agent and Bank of America National Trust and Savings Association and the Chase Manhattan Bank, as Co-Agents. We have acted as counsel for the Company in connection with the Credit Agreement. Unless otherwise defined herein, terms used herein shall have the meanings assigned to them in the Credit Agreement.

In connection with this opinion letter, we have examined originals, or copies certified or otherwise identified to our satisfaction, of such documents, corporate records, certificates, including certificates of public officials, and other instruments as we have deemed necessary or advisable for purposes of this opinion letter, including those relating to the authorization, execution and delivery of the Credit Agreement. In addition, we have examined the following documents (the items referred to in subclauses (i) and (ii) below herein referred to as the "CREDIT DOCUMENTS"):

(i) an executed copy of the Credit Agreement;

(ii) the form of Note to be delivered by the Company in favor of a Lender pursuant to the Credit Agreement;

(iii) the Articles of Incorporation and the Bylaws of the Company, each as in effect on the date hereof;

(iv) an executed copy of the certificate of the [Assistant] Secretary of the Company dated July 2, 1997 certifying: a true copy of the resolutions of the Board of Directors of the Company, adopted on _____, 1997, authorizing, among other things, the execution, delivery and performance of the Credit Documents, and the incumbency, authority and true signatures of the officers of the Company authorized to sign the Credit Documents and any other documents and certificates delivered in connection therewith;

(v) an executed copy of the certificate (the "Officer's Certificate") of the Secretary [and the _____] of the Company, dated July 2, 1997 ; and

(vi) such other documents as we have deemed necessary or appropriate as a basis for the opinions hereinafter expressed.

We have also examined photostatic or facsimile copies of the agreements identified in Exhibit A to the Officer's Certificate (the "Material Agreements") [and the consents received from _____ in connection with the Material Agreements]. In our examination and review we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of the documents submitted to us as originals, the conformity to the original documents of all documents submitted to us as certified, facsimile or photostatic copies, and the authenticity of the originals of such copies. As to any facts material to the opinions hereinafter expressed which we did not independently establish or verify, we have relied without investigation upon certificates, statements and representations of representatives of the Company. Regarding documents executed by parties other than the Company, we have assumed (i) that each such other party had the power to enter into and perform all its obligations thereunder, (ii) the due authorization, execution and delivery of such documents by each such party, and (iii) that such documents constitute the legal, valid and binding obligations of each such party.

With respect to our opinion in paragraph 1 below, we are relying solely on our review and examination of the certificate received from the Secretary of State of the State of California, without further investigation of the corporate records of the Company.

Based upon and subject to the foregoing, and subject to the further assumptions, limitations, qualifications and exceptions set forth herein, we are of the opinion that:

1. The Company is a corporation duly incorporated, validly existing and in good standing under the laws of the State of California with the corporate power and authority to own its properties and to carry on its business as, to our knowledge, it is now conducted.
2. The Company has the corporate power and authority to enter into and perform the Credit Documents, and has taken all necessary corporate action to authorize the execution, delivery and performance of the Credit Documents.
3. No consents, approvals or authorizations of, or notices to or filings with, any governmental authority or agency under the laws of the State of California or the laws of the United States, as presently in effect and interpreted, are required or necessary on the part of the Company in connection with the execution and delivery by the Company of the Credit Documents.
4. The Credit Agreement is, and the Notes when executed and delivered by the Company under the Credit Agreement will be, the legal, valid and binding obligations of the Company, enforceable by the Agents and the Lenders against the Company in accordance with their respective terms.
5. The execution or delivery by the Company of the Credit Documents will not (i) violate or be in conflict with any provision of the Articles of Incorporation or Bylaws of the Company, (ii) to our knowledge, violate or be in conflict with any federal or California law having applicability to the Company as presently in effect and interpreted, (iii) to our knowledge, violate or contravene any judgment, decree, injunction or order of any federal or California court, or any arbitrator or governmental agency or authority, having jurisdiction over the Company or its properties or by which the Company may be bound, or (iv) constitute a material breach of, or result in a material default under, any term or provision of any of the Material Agreements.
6. We have no knowledge of any pending litigation or other proceedings against the Company or its properties before any court, arbitrator or governmental agency or

authority that challenge the legality, validity or enforceability of the Credit Documents or which, if determined adversely to the Company, would be likely to have a material adverse effect on the Company.

Whenever a statement herein is qualified by the expressions "known to us," "to our knowledge," "we are not aware" or a similar phrase with respect to our knowledge of matters of fact, it is intended to mean that our knowledge is based upon the records, documents, instruments and certificates described above and the current actual knowledge of the attorneys in this Firm who have devoted substantive attention to the transactions contemplated by the Credit Documents (but not including any constructive or imputed notice of any information) and that we have not otherwise undertaken any independent investigations for the purpose of rendering this opinion.

This opinion is limited to the laws of the State of California; the laws of the State of New York (as to paragraph 4 only); and applicable federal laws of the United States (as to paragraphs 3 and 5 only), and we express no opinion herein with respect to the effect or applicability of the laws of other jurisdictions. Without limiting the generality of the foregoing, the opinion in paragraph 4 is expressed only as a matter of New York law.

Our opinions in paragraph 3 above and in clause (ii) of paragraph 5 above are limited to laws and regulations normally applicable to transactions of the type contemplated in the Credit Documents and do not extend to licenses, permits and approvals necessary for the conduct of the Company's business. In addition and without limiting the previous sentence, we express no opinion herein with respect to the effect of any land use, environmental or similar law, any state or federal antitrust law, state or federal securities laws, or any local law. Further, we express no opinion as to compliance or noncompliance by any Lender with any federal, state or other law (i) requiring any Lender to be licensed as a bank, finance company or other type of financial institution, (ii) pertaining to matters regulating the assets held by the Lender on the basis of portfolio requirements or any Lender's capitalization, such as loan limits and capital adequacy requirements, and (iii) otherwise applicable to any Lender and relating to its legal or regulatory status or the nature of its business.

The opinions set forth above are subject to the following qualifications, assumptions, limitations and exceptions:

(a) The enforceability of the Company's obligations under the Credit Documents may be subject to or limited by (i) bankruptcy, insolvency, reorganization, arrangement, moratorium, fraudulent transfer and other similar laws affecting the rights of creditors

generally; and (ii) general equitable principles (whether relief is sought in a proceeding at law or in equity), including, without limitation, concepts of materiality, reasonableness, good faith, and fair dealing.

(b) We express no opinion as to provisions of the Credit Documents purporting to establish an evidentiary standard or to authorize conclusive determinations by any Agent or any Lender or any other Person or allowing any Agent or any Lender or any other Person to make determinations in its sole discretion.

(c) We also express no opinion as to:

(1) the enforceability of provisions of the Credit Documents pursuant to which the Company agrees to make payments without set-off, defense or counterclaim;

(2) the enforceability of provisions relating to indemnification, contribution or exculpation, to the extent any such provision is contrary to public policy or prohibited by law (including, without limitation, federal and state securities laws);

(3) any provision providing for the exclusive jurisdiction of a particular court or purporting to waive rights to trial by jury, service of process or objections to the laying of venue or to forum on the basis of forum non conveniens, in connection with any litigation arising out of or pertaining to the Credit Documents;

(4) provisions contained in the Credit Documents purporting to waive either illegality as a defense to the performance of contract obligations or any other defense to such performance which cannot, as a matter of law, be effectively waived;

(5) any provision of the Credit Documents insofar as it provides that any Person purchasing a participation from a Lender or other Person may exercise set-off or similar rights with respect to such participation or that a Lender or other Person may exercise set-off or similar rights other than in accordance with applicable law;

(6) any provision of the Credit Documents permitting modification thereof only by means of an agreement in writing signed by the parties thereto;

(7) any provision of the Credit Documents requiring payment of attorneys' fees, except to the extent a court determines such fees to be reasonable; and

(8) the effect of the law of any jurisdiction other than the State of New York which limits the rates of interest legally chargeable or collectible.

(d) We wish to point out that any Lender, as the holder of a Note, may be required to prove the outstanding amount thereof.

The opinions expressed herein are solely for your benefit and for the benefit of your successors and assigns pursuant to the Credit Agreement in connection with the above transactions, and such opinions may not be relied on in any manner or for any purpose by any other Person. In addition, this opinion is rendered as of the date hereof and speaks only to the Agents and the original Lenders, and it shall not be deemed to have been updated to any date upon which any such other Person may rely hereon. Further, we do not undertake to advise you or such other Person of matters which occur subsequent to the date hereof and which affect the opinions expressed herein.

Very truly yours,

BROBECK, PHLEGER & HARRISON LLP

EXHIBIT F - Opinion of Special Counsel for the Agents

**OPINION OF
DAVIS POLK & WARDWELL, SPECIAL COUNSEL
FOR THE AGENTS**

_____, 199_

To the Lenders and the Agents
Referred to Below
c/o Morgan Guaranty Trust Company
of New York, as Documentation Agent
60 Wall Street
New York, New York 10260

Dear Sirs:

We have participated in the preparation of the Credit Agreement (the "CREDIT AGREEMENT") dated as of July 2, 1997 among Cisco Systems, Inc., a California corporation (the "Borrower"), the Lenders listed on the signature pages thereof (the "Lenders"), Citicorp USA, Inc., as Administrative Agent, and Morgan Guaranty Trust Company of New York, as Documentation Agent, and have acted as special counsel for the Agents for the purpose of rendering this opinion pursuant to Section 3.01(b) of the Credit Agreement. Terms defined in the Credit Agreement are used herein as therein defined.

We have examined originals or copies, certified or otherwise identified to our satisfaction, of such documents, corporate records, certificates of public officials and other instruments and have conducted such other investigations of fact and law as we have deemed necessary or advisable for purposes of this opinion.

We have assumed that the execution, delivery and performance by the Borrower of the Credit Agreement and the Notes are within its corporate powers and have been duly authorized by all necessary action.

Upon the basis of the foregoing, we are of the opinion that the Credit Agreement constitutes a valid and binding agreement of the Borrower and, if and when issued in accordance with the Credit Agreement, each Note will constitute a valid and binding obligation of the Borrower, in each case enforceable in accordance with its terms except as the same may be limited by bankruptcy, insolvency or similar laws affecting creditors' rights generally and by general principles of equity.

We are members of the Bar of the State of New York and the foregoing opinion is limited to the laws of the State of New York and the federal laws of the United States of America. In giving the foregoing opinion, we express no opinion as to the effect (if any) of any law of any jurisdiction (except the State of New York) in which any Lender is located which limits the rate of interest that such Lender may charge or collect.

This opinion is rendered solely to you in connection with the above matter. This opinion may not be relied upon by you for any other purpose or relied upon by any other person without our prior written consent.

Very truly yours,

EXHIBIT G - Assignment and Assumption Agreement

ASSIGNMENT AND ASSUMPTION AGREEMENT

AGREEMENT dated as of ____, 1995 among [NAME OF ASSIGNOR] (the "ASSIGNOR"), [NAME OF ASSIGNEE] (the "ASSIGNEE"), CISCO SYSTEMS, INC. (the "BORROWER"), and CITICORP USA, INC., as Administrative Agent.

WHEREAS, this Assignment and Assumption Agreement (the "AGREEMENT") relates to the Credit Agreement dated as of July 2, 1997 among the Borrower, the Assignor and the other Lenders party thereto, as Lenders, the Administrative Agent, and Morgan Guaranty Trust Company of New York, as Documentation Agent (as amended from time to time, the "CREDIT AGREEMENT");

WHEREAS, as provided under the Credit Agreement, the Assignor has a Commitment to make Loans to the Borrower such that the aggregate principal amount of such Loans outstanding at any time shall not exceed \$_____;

WHEREAS, Committed Loans made to the Borrower by the Assignor under the Credit Agreement in the aggregate principal amount of \$_____ are outstanding at the date hereof; and

WHEREAS, the Assignor proposes to assign to the Assignee all of the rights of the Assignor under the Credit Agreement in respect of a portion of its Commitment thereunder in an amount equal to \$_____ (the "Assigned Amount"), together with a corresponding portion of its outstanding Committed Loans, and the Assignee proposes to accept assignment of such rights and assume the corresponding obligations from the Assignor on such terms;

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements contained herein, the parties hereto agree as follows:

SECTION 1. Assignment. The Assignor hereby assigns and sells to the Assignee all of the rights of the Assignor under the Credit Agreement to the extent of the Assigned Amount, and the Assignee hereby accepts such assignment from the Assignor and

assumes all of the obligations of the Assignor under the Credit Agreement to the extent of the Assigned Amount, including the purchase from the Assignor of the corresponding portion of the principal amount of the Committed Loans made by the Assignor outstanding at the date hereof. Upon the execution and delivery hereof by the Assignor, the Assignee, [the Borrower and, the Administrative Agent,] and the payment of the amounts specified in Section 3 required to be paid on the date hereof (i) the Assignee shall, as of the date hereof, succeed to the rights and be obligated to perform the obligations of a Lender under the Credit Agreement with a Commitment in an amount equal to the Assigned Amount, and (ii) the Commitment of the Assignor shall, as of the date hereof, be reduced by a like amount and the Assignor released from its obligations under the Credit Agreement to the extent such obligations have been assumed by the Assignee. The assignment provided for herein shall be without recourse to the Assignor.

SECTION 2. Payments. As consideration for the assignment and sale contemplated in Section 2 hereof, the Assignee shall pay to the Assignor on the date hereof in Federal funds the amount heretofore agreed between them(1). It is understood that commitment and/or facility fees accrued to the date hereof are for the account of the Assignor and such fees accruing from and including the date hereof are for the account of the Assignee. Each of the Assignor and the Assignee hereby agrees that if it receives any amount under the Credit Agreement which is for the account of the other party hereto, it shall receive the same for the account of such other party to the extent of such other party's interest therein and shall promptly pay the same to such other party.

[SECTION 3. Consent of the Borrower and the Administrative Agent. This Agreement is conditioned upon the consent of the Borrower and the Administrative Agent pursuant to Section 9.07(c) of the Credit Agreement. The execution of this Agreement by the Borrower and the Administrative Agent is evidence of this consent. Pursuant to Section 9.07(c), the Borrower agrees, upon the Assignee's request, to execute and deliver a Note payable to the order of the Assignee to evidence the assignment and assumption provided for herein.]

SECTION 4. Non-Reliance on Assignor. The Assignor makes no representation or warranty in connection with, and shall have no responsibility with respect to, the

(1) Amount should combine principal together with accrued interest and breakage compensation, if any, to be paid by the Assignee, net of any portion of any upfront fee to be paid by the Assignor to the Assignee. It may be preferable in an appropriate case to specify these amounts generally or by formula rather than as a fixed sum.

solvency, financial condition, or statements of the Borrower, or the validity and enforceability of the obligations of the Borrower in respect of the Credit Agreement or any Note. The Assignee acknowledges that it has, independently and without reliance on the Assignor, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement and will continue to be responsible for making its own independent appraisal of the business, affairs and financial condition of the Borrower.

SECTION 5. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

SECTION 6. Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their duly authorized officers as of the date first above written.

[NAME OF ASSIGNOR]

By _____
Name:
Title:

[NAME OF ASSIGNEE]

By _____
Name:
Title:

[CISCO SYSTEMS, INC.]

By _____
Name:
Title:]

[CITICORP USA, INC., as Administrative Agent

By _____ Name:

Title:]

NOTE

New York, New York
July 2, 1997

For value received, CISCO SYSTEMS, INC., a California corporation (the "BORROWER"), promises to pay to the order of BANKBOSTON, N.A. (the "LENDER"), for the account of its Applicable Lending Office, the unpaid principal amount of each Loan made by the Lender to the Borrower pursuant to the Credit Agreement referred to below on the maturity date provided for in the Credit Agreement. The Borrower promises to pay interest on the unpaid principal amount of each such Loan on the dates and at the rate or rates provided for in the Credit Agreement. All such payments of principal and interest shall be made in lawful money of the United States in Federal or other immediately available funds at the office of Citicorp USA, Inc., 1 Court Street, 7th Floor, Zone 1, Long Island City, NY, 11120.

All Loans made by the Lender, the respective types and maturities thereof and all repayments of the principal thereof shall be recorded by the Lender and, if the Lender so elects in connection with any transfer or enforcement hereof, appropriate notations to evidence the foregoing information with respect to each such Loan then outstanding may be endorsed by the Lender on the schedule attached hereto, or on a continuation of such schedule attached to and made a part hereof; provided that the failure of the Lender to make any such recordation or endorsement shall not affect the obligations of the Borrower hereunder or under the Credit Agreement.

This note is one of the Notes referred to in the Credit Agreement dated as of July 2, 1997 among Cisco Systems, Inc., the banks listed on the signature pages thereof, Citicorp USA, Inc., as Administrative Agent, and Morgan Guaranty Trust Company of New York, as Documentation Agent (as the same may be amended from time to time, the "CREDIT AGREEMENT"). Terms defined in the Credit Agreement are used herein with the same meanings. Reference is made to the Credit Agreement for provisions for the prepayment hereof and the acceleration of the maturity hereof.

CISCO SYSTEMS, INC.

By /s/ D.A. ROGAN

Name: David A. Rogan
Title: Treasurer

NOTE

New York, New York
July 2, 1997

For value received, CISCO SYSTEMS, INC., a California corporation (the "BORROWER"), promises to pay to the order of DEUTSCHE BANK AG, NEW YORK BRANCH AND/OR CAYMAN ISLANDS BRANCH (the "LENDER"), for the account of its Applicable Lending Office, the unpaid principal amount of each Loan made by the Lender to the Borrower pursuant to the Credit Agreement referred to below on the maturity date provided for in the Credit Agreement. The Borrower promises to pay interest on the unpaid principal amount of each such Loan on the dates and at the rate or rates provided for in the Credit Agreement. All such payments of principal and interest shall be made in lawful money of the Unites States in Federal or other immediately available funds at the office of Citicorp USA, Inc., 1 Court Street, 7th Floor, Zone 1, Long Island City, NY, 11120.

All Loans made by the Lender, the respective types and maturities thereof and all repayments of the principal thereof shall be recorded by the Lender and, if the Lender so elects in connection with any transfer or enforcement hereof, appropriate notations to evidence the foregoing information with respect to each such Loan then outstanding may be endorsed by the Lender on the schedule attached hereto, or on a continuation of such schedule attached to and made a part hereof; provided that the failure of the Lender to make any such recordation or endorsement shall not affect the obligations of the Borrower hereunder or under the Credit Agreement.

This note is one of the Notes referred to in the Credit Agreement dated as of July 2, 1997 among Cisco systems, Inc., the banks listed on the signature pages thereof, Citicorp USA, Inc., as Administrative Agent, and Morgan Guaranty Trust Company of New York, as Documentation Agent (as the same may be amended from time to time, the "CREDIT AGREEMENT"). Terms defined in the Credit Agreement are used herein with the same meanings. Reference is made to the Credit Agreement for provisions for the prepayment hereof and the acceleration of the maturity hereof.

CISCO SYSTEMS, INC.

By /s/ D. A. ROGAN

NAME: David A. Rogan
Treasurer

NOTE

New York, New York
July 2, 1997

For value received, CISCO SYSTEMS, INC., a California corporation (the "BORROWER"), promises to pay to the order of UNION BANK OF SWITZERLAND (the "LENDER"), for the account of its Applicable Lending Office, the unpaid principal amount of each Loan made by the Lender to the Borrower pursuant to the Credit Agreement referred to below on the maturity date provided for in the Credit Agreement. The Borrower promises to pay interest of the unpaid principal amount of each such Loan on the dates and at the rate or rates provided for in the Credit Agreement. All such payments of principal and interest shall be made in lawful money of the United States in Federal or other immediately available funds at the office of Citicorp USA, Inc., 1 Court Street, 7th Floor, Zone 1, Long Island City, NY, 11120.

All Loans made by the Lender, the respective types and maturities thereof and all repayments of the principal thereof shall be recorded by the Lender and, if the Lender so elects in connection with any transfer or enforcement hereof, appropriate notations to evidence the foregoing information with respect to each such Loan then outstanding may be endorsed by the Lender on the schedule attached hereto, or on a continuation of such schedule attached to and made a part hereof; provided that the failure of the Lender to make any such recordation or endorsement shall not affect the obligations of the Borrower hereunder or under the Credit Agreement.

This note is one of the Notes referred to in the Credit Agreement dated as of July 2, 1997 among Cisco Systems, Inc., the banks listed on the signature pages thereof, Citicorp USA, Inc., as Administrative Agent, and Morgan Guaranty Trust Company of New York, as Documentation Agent (as the same may be amended from time to time, the "CREDIT AGREEMENT"). Terms defined in the Credit Agreement are used herein with the same meanings. Reference is made to the Credit Agreement for provisions for the prepayment hereof and the acceleration of the maturity hereof.

CISCO SYSTEMS, INC.

By: /s/ D.A. ROGAN

NAME: DAVID A. ROGAN

TITLE: TREASURER

EXHIBIT 11.01**COMPUTATION OF NET INCOME PER SHARE****IN ACCORDANCE WITH INTERPRETIVE RELEASE NO. 34-9083**

(In thousands, except per-share amounts)

	Years Ended		
	July 26, 1997	July 28, 1996	July 30, 1995
PRIMARY EARNINGS PER SHARE:			
Actual weighted average common shares outstanding for the period	660,438	638,680	607,757
Weighted average shares assuming exercise of employees' stock options using average market price	28,881	27,906	22,954
Shares used in per-share calculations	689,319	666,586	630,711
Net income applicable to primary income per share	\$1,048,679	\$ 913,324	\$ 456,489
Net income per share based on SEC Interpretive Release No. 34-9083	\$ 1.52	\$ 1.37	\$ 0.72

(A) These calculations are submitted in accordance with Securities Exchange Act of 1934 Release No. 34-9083.

COMPUTATION OF NET INCOME PER SHARE**IN ACCORDANCE WITH INTERPRETIVE RELEASE NO. 34-9083**

(In thousands, except per-share amounts)

	Years Ended		
	July 26, 1997	July 28, 1996	July 30, 1995
FULLY DILUTED EARNINGS PER SHARE:			
Actual weighted average common shares outstanding for the period	660,438	638,680	607,757
Weighted average shares assuming exercise of employees' stock options using ending market price	34,360	30,058	27,214
Shares used in per-share calculations	694,798	668,738	634,971
Net income applicable to fully diluted income per share	\$1,048,679	\$ 913,324	\$ 456,489
Net income per share based on SEC Interpretive Release No. 34-9083	\$ 1.51	\$ 1.37	\$.72

(A) These calculations are submitted in accordance with Securities Exchange Act of 1934 Release No. 34-9083.

SELECTED FINANCIAL DATA**Five Years Ended July 26, 1997 (in thousands, except per-share amounts)**

	1997	1996	1995	1994	1993
Net sales	\$6,440,171	\$4,096,007	\$2,232,652	\$1,334,436	\$ 714,533
Net income	\$1,048,679(1)	\$ 913,324	\$ 456,489(2)	\$ 322,981	\$ 176,201
Net income per common share	\$ 1.52(1)	\$ 1.37	\$ 0.72(2)	\$ 0.54	\$ 0.30
Shares used in per-share calculation	689,319	666,586	630,711	596,539	580,623
Total assets	\$5,451,984	\$3,630,232	\$1,991,949	\$1,129,034	\$ 656,394

(1) Net income and net income per share include purchased research and development expenses of \$508.4 million and realized gains on the sale of a minority stock investment of \$152.7 million. Pro forma net income and net income per share, excluding these nonrecurring items net of tax, would have been \$1,413,893 and \$2.05, respectively.

(2) Net income and net income per share include purchased research and development expenses of \$95.8 million. Pro forma net income and net income per share, excluding these nonrecurring items net of tax, would have been \$515,723 and \$0.82, respectively.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF Financial Condition and Results of Operations

Certain statements contained in this Annual Report on Form 10-K, including, without limitation, statements containing the words "believes," "anticipates," "estimates," "expects," and words of similar import, constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Readers are referred to the "Other Risk Factors" section of the Annual Report on Form 10-K, as well as the "Financial Risk Management" and "Future Growth Subject to Risks" sections contained herein, which identify important risk factors that could cause actual results to differ from those contained in the forward-looking statements.

COMPARISON OF 1997 AND 1996

Net sales grew to \$6.4 billion in 1997 from \$4.1 billion in 1996. The 57.2% increase in net sales during the year was primarily the result of increasing unit sales of LAN switching products such as the Catalyst(R) 5000, high-end routers such as the Cisco 7500 product family, modular access routers such as the Cisco 4700, and growth in the sales of add-on boards that provide increased functionality. These increases were partially offset by decreasing unit sales of the Company's older product lines, consisting of the Cisco 7000 and Cisco 4000. The sales growth rate for lower-priced access and switching products targeted toward small and medium-sized businesses has increased faster than that of the Company's high-end core router products. These products typically carry lower average selling prices, thereby contributing to the slowdown in the Company's overall growth rate in 1997 versus 1996. Additionally, some of the Company's more established product lines, such as the Cisco 2500 series, have experienced decelerating growth rates. Sales to international customers decreased to 43.5% of net sales in 1997 from 48.2% for 1996. The decrease reflects slower sales growth in certain international markets, particularly Japan, France, and Germany. Sales growth in these markets has been impacted by certain factors including weaker economic conditions, delayed government spending, a stronger dollar versus the local currencies, and slower adoption of networking technologies.

Gross margins decreased slightly to 65.2% during 1997 from 65.6% in 1996. This decrease is due to several factors, including the continued shift in revenue mix to the Company's lower-margin products consisting primarily of access and workgroup products for small to medium-sized businesses. These products traditionally have fewer features and less software functionality than the Company's service provider and enterprise offerings. The prices of component parts have fluctuated in the recent past, and the Company expects that this trend may continue. An increase in the price of component parts may have a material adverse impact on gross margins. The Company expects that gross margins will continue to decrease in the future, because it believes that the market for lower-margin remote access and switching products for small to medium-sized businesses will continue to increase at a faster rate than the market for the Company's higher-margin router and high-performance switching products. The Company is attempting to mitigate this trend through various means, such as increasing the functionality of its products, value engineering, controlling royalty costs, and improving manufacturing efficiencies. There can be no assurance that any efforts made by the Company in these and other areas will successfully offset decreasing margins.

Research and development expenses increased by \$299 million in 1997 compared with 1996 expenditures, an increase to 10.8% of net sales from 9.7% in 1996. The increase reflects the Company's ongoing research and development efforts in a wide variety of areas such as voice, video, and data integration, Digital Subscriber Line (DSL) technologies, dial access, enterprise switching, security, network management, and high-end routing technologies,

among others. A significant portion of the increase was due to the addition of new personnel, as well as higher expenditures on prototypes and depreciation on new equipment. The Company is primarily developing new technologies internally. Accordingly, research and development expenses are expected to increase at the same or a slightly greater rate than the sales growth rate. The Company also continues to purchase technology in order to bring a broad range of products to the market in a timely fashion. If the Company believes that it is unable to enter a particular market in a timely manner, it may acquire other businesses or license technology from other businesses as an alternative to internal research and development. All of the Company's research and development costs are expensed as incurred.

Sales and marketing expenses increased by \$434 million in fiscal 1997 over fiscal 1996, an increase to 18.0% of net sales in 1997 from 17.7% in fiscal 1996. The increase in these expenses resulted from an increase in the size of the Company's direct sales force and related commissions, additional marketing programs to support the launch of new products, the entry into new markets, and expanding distribution channels.

General and administrative expenses rose by \$45 million in fiscal 1997 over fiscal 1996, a decrease to 3.2% from 3.9% of net sales. The dollar increase reflects increased personnel costs necessary to support the Company's business infrastructure, including those associated with its new European Logistics Center, as well as the further development of its information systems. The percentage decrease reflects management's continued efforts to control discretionary spending. It is management's intent to keep general and administrative costs relatively constant as a percentage of net sales; however, this goal is dependent upon the level of acquisition activity, among other factors.

The amount expensed to purchased research and development in fiscal 1997 arose from the acquisitions of Telebit Corporation, Netsys Technologies, Skystone Systems Corporation, Ardent Communications, and Global Internet Software Group (see Note 3).

Interest and other income, net, was \$109 million in 1997 and \$64 million in 1996. Interest income rose as a result of additional investment income on the Company's increasing investment balances. The Company currently holds approximately .3 million shares of common stock in a publicly traded company with a cost basis significantly below its current market value. Beginning in fiscal year 1997, the Company began selling its equity stake in this company. Also in 1997, the Company established the Cisco Systems Foundation ("the Foundation"). As part of this initiative, the Company donated a portion of this investment, along with other equity securities, with a combined cost basis of approximately \$2 million and an approximate market value of \$72 million at July 26, 1997, to the Foundation. The realized gains on the sale of this investment, net of the amounts donated to the Foundation, were \$153 million in fiscal 1997. The Company expects to sell its remaining stake in the publicly traded company in fiscal year 1998 and will realize additional gains, based on an established hedge on this investment (see Note 5).

COMPARISON OF 1996 AND 1995

Net sales grew to \$4.1 billion in 1996 from \$2.2 billion in 1995. The 83.5% increase in net sales during the year was primarily a result of increasing unit sales of the Cisco 7500 series; continued strong sales of Access business unit products, including the Cisco 4500 and Cisco 2500 series; and continued market acceptance of the Company's Workgroup business unit products, particularly the Catalyst 5000. In connection with the acquisition of StrataCom, Inc., the Company formed the WAN business unit, which consists

MANAGEMENT'S DISCUSSION AND ANALYSIS OF Financial Condition and Results of Operations

of the IPX(R), BPX(R), IGX(TM), and AXIS product lines. Sales of these products increased from 1995 levels primarily because of an increase in demand for Asynchronous Transfer Mode (ATM) cell switching products by public carrier customers. These increases were partially offset by decreasing unit sales of the Company's older product lines, comprising mainly the Cisco 7000 series. Sales to international customers were 48.2% of net sales in 1996 compared with 41.7% in 1995. This increase was attributed to continued expansion into new geographic markets, as well as growth in existing European and Japanese markets. Sales growth between 1996 and 1995 increased more substantially in Japan than in other geographical markets.

Gross margins decreased to 65.6% of net sales in 1996 from 66.7% in 1995. Gross margins were affected by several factors, including higher material costs as a result of certain component shortages and the continued shift in revenue mix to the Company's lower-margin products consisting primarily of products in the Access and Workgroup business units.

Research and development expenses increased in 1996 by \$189 million over 1995 expenditures. This represents an increase to 9.7% of net sales from 9.4% in 1995. The increase reflected the Company's ongoing research and development efforts, including the further development of the CiscoFusion architecture, as well as the acquisition of technologies to bring a broad range of products to the market in a timely fashion. A significant portion of the increase was due to the addition of new personnel, both from hiring and through acquisitions, as well as higher expenditures on prototypes and depreciation on new equipment.

Sales and marketing expenses increased by \$326 million in 1996 over 1995, but decreased to 17.7% of net sales in 1996 from 17.9% of net sales in 1995. The dollar increase in these expenses resulted mainly from an increase in the size of the Company's direct sales force and its commissions. Other factors affecting the dollar increase in expenses were additional marketing programs to support the launch of new products; the entry into new markets as noted by the significant percentage increase in business outside the U.S.; and expansion of distribution channels, particularly the two-tier channels associated with the Company's initial efforts to reach the mass market.

General and administrative expenses rose by \$75 million in 1996 over 1995, a slight increase to 3.9% from 3.8% of net sales in 1996 versus 1995. The dollar increase reflects increased personnel costs necessary to support the Company's business infrastructure, the amortization of goodwill related to the acquisition of LightStream(R), and a one-time write-down of \$5 million of LightStream goodwill. There were also nonrecurring costs related to the acquisition of StrataCom that totaled \$15 million for fiscal 1996. Excluding the effect of these nonrecurring costs, general and administrative expenses as a percentage of net sales declined to 3.4%, which reflected management's continued controls over discretionary spending.

The amount expensed to purchased research and development in fiscal year 1995 reflects the acquisition of LightStream (see Note 3).

Interest and other income, net, was \$64 million in 1996 and \$40 million in 1995. Interest income rose as a result of additional investment income on the Company's increasing investment balances.

RECENT ACCOUNTING PRONOUNCEMENTS

In February 1997, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standard (SFAS) No. 128, "Earnings per Share" (EPS), which simplifies existing computational guidelines, revises disclosure requirements, and increases the comparability of earnings per share on an international basis. Management has not yet evaluated the effects of this change in computational guidelines on

the Company's EPS. SFAS No. 128 is effective for periods ending after December 15, 1997 and requires restatement of all prior period EPS data presented. The Company will adopt SFAS No. 128 in its second quarter of fiscal year 1998.

In June 1997, the FASB issued SFAS No. 130, "Reporting Comprehensive Income," which establishes standards for reporting and display of comprehensive income and its components (revenue, expenses, gains, and losses) in a full set of general-purpose financial statements. The Company will adopt SFAS No. 130 in its fiscal year 1999.

In June 1997, the FASB issued SFAS No. 131, "Disclosure about Segments of an Enterprise and Related Information," which changes the way public companies report information about operating segments. SFAS No. 131, which is based on the management approach to segment reporting, establishes requirements to report selected segment information quarterly and to report entity-wide disclosures about products and services, major customers, and the material countries in which the entity holds assets and reports revenue. Management has not yet evaluated the effects of this change on its reporting of segment information. The Company will adopt SFAS No. 131 in its fiscal year 1999.

FINANCIAL RISK MANAGEMENT

The following discussion about the Company's risk management activities includes "forward-looking statements" that involve risks and uncertainties. Actual results could differ materially from those projected in the forward-looking statements.

As a global concern, the Company faces exposure to adverse movements in foreign currency exchange rates. These exposures may change over time as business practices evolve and could have a material adverse impact on the Company's financial results. Historically, the Company's primary exposures related to nondollar-denominated sales in Japan, Canada, and Australia and nondollar-denominated operating expenses in Europe, Latin America, and Asia where the Company sells primarily in U.S. dollars. The Company has recently expanded its business activities in Europe. As a result, the Company expects to see an increase in exposures related to nondollar-denominated sales in several European currencies. At the present time, the Company hedges only those currency exposures associated with certain assets and liabilities denominated in nonfunctional currencies and does not generally hedge anticipated foreign currency cash flows. The hedging activity undertaken by the Company is intended to offset the impact of currency fluctuations on certain nonfunctional currency assets and liabilities. The success of this activity depends upon forecasts of transaction activity denominated in various currencies, primarily the Japanese yen, Canadian dollar, Australian dollar, and certain European currencies. To the extent that these forecasts are over- or understated during periods of currency volatility, the Company could experience unanticipated currency gains or losses.

The Company maintains investment portfolio holdings of various issuers, types, and maturities. These securities are generally classified as available for sale, and consequently, are recorded on the balance sheet at fair value with unrealized gains or losses reported as a separate component of shareholders' equity. Part of this portfolio includes minority equity investments in several publicly traded companies, the values of which are subject to market price volatility. The Company also has certain real estate lease commitments with payments tied to short-term interest rates. Given the current profile of interest rate exposures, a sharp rise in interest rates could have a material adverse impact on the fair value of the Company's investment portfolio while increasing the costs associated with its lease commitments. The Company does not currently hedge these interest rate exposures.

**MANAGEMENT'S DISCUSSION AND ANALYSIS OF
Financial Condition and Results of Operations**

The following tables present the hypothetical changes in fair values in the financial instruments held by the Company at July 26, 1997 that are sensitive to changes in interest rates. These instruments are not leveraged and are held for purposes other than trading. The modeling technique used measures the change in fair values arising from selected potential changes in interest rates. Market changes reflect immediate hypothetical parallel shifts in the yield curve of plus or minus 50 basis points (BPS), 100 BPS, and 150 BPS over six- and twelve-month time horizons. Beginning fair values represent the market principal plus accrued interest, dividends, and certain interest rate-sensitive securities considered cash and equivalents for financial reporting purposes at July 26, 1997. Ending fair values are the market principal plus accrued interest, dividends, and reinvestment income at six- and twelve-month time horizons. This table estimates the fair value of the portfolio at a six-month time horizon (in millions):

ISSUER	VALUATION OF SECURITIES GIVEN AN INTEREST RATE DECREASE OF X BASIS POINTS			NO CHANGE IN INTEREST RATES	VALUATION OF SECURITIES GIVEN AN INTEREST RATE INCREASE OF X BASIS POINTS		
	(150 BPS)	(100 BPS)	(50 BPS)		50 BPS	100 BPS	150 BPS
U.S. government notes and bonds	\$ 635	\$ 633	\$ 631	\$ 629	\$ 626	\$ 624	\$ 622
State, municipal, and county government notes and bonds	1,432	1,421	1,411	1,400	1,389	1,378	1,367
Foreign government notes and bonds	33	33	33	33	33	33	33
Corporate notes and bonds	723	723	722	719	722	722	721
Total	\$2,823	\$2,810	\$2,797	\$2,781	\$2,770	\$2,757	\$2,743

This table estimates the fair value of the portfolio at a twelve-month time horizon (in millions):

ISSUER	VALUATION OF SECURITIES GIVEN AN INTEREST RATE DECREASE OF X BASIS POINTS			NO CHANGE IN INTEREST RATES	VALUATION OF SECURITIES GIVEN AN INTEREST RATE INCREASE OF X BASIS POINTS		
	(150 BPS)	(100 BPS)	(50 BPS)		50 BPS	100 BPS	150 BPS
U.S. government notes and bonds	\$ 650	\$ 649	\$ 648	\$ 647	\$ 646	\$ 645	\$ 644
State, municipal, and county government notes and bonds	1,454	1,446	1,438	1,430	1,422	1,413	1,404
Foreign government notes and bonds	34	34	34	34	34	34	34
Corporate notes and bonds	731	734	738	741	745	748	752
Total	\$2,869	\$2,863	\$2,858	\$2,852	\$2,847	\$2,840	\$2,834

A 50-BPS move in the Federal Funds Rate has occurred in 14 of the last 40 quarters; a 100-BPS move in the Federal Funds Rate has occurred in 4 of the last 40 quarters; and a 150-BPS move in the Federal Funds Rate has not occurred in any of the last 40 quarters.

The following analysis presents the hypothetical change in fair values of public equity investments held by the Company that are sensitive to changes in the stock market. These equity securities are held for purposes other than trading.

The modeling technique used measures the hypothetical change in fair values arising from selected hypothetical changes in each stock's price. Stock price fluctuations of plus or minus 15%, plus or minus 35%, and plus or minus 50% were selected based on the probability of their occurrence.

This table estimates the fair value of the publicly traded corporate equities at a twelve-month time horizon (in millions):

	VALUATION OF SECURITY GIVEN X% DECREASE IN EACH STOCK'S PRICE			FAIR VALUE AS OF JULY 26, 1997	VALUATION OF SECURITY GIVEN X% INCREASE IN EACH STOCK'S PRICE		
	(50%)	(35%)	(15%)		15%	35%	50%
Corporate Equities	\$48	\$62	\$81	\$95	\$110	\$128	\$143

During fiscal year 1997, the Company began to sell its minority equity position in a publicly traded company. A hedge, in the form of a cashless collar, was formed to protect unrealized gains on the investment. Because this investment is hedged against upward and downward price movement, it has been excluded from the above analysis (see Note 5).

Within the Company's public equity investment portfolio, a 15% movement in the stock price has occurred in 75% of the quarters since the shares were initially offered or in the last three years; a 35% movement in the stock price has occurred in 45% of the quarters since the shares were initially offered or in the last three years; and a 50% movement in the stock price has occurred in 15% of the quarters since the shares were initially offered or in the last three years.

The Company also has interest rate risk associated with leases on its facilities whose payments are tied to the London Interbank Offered rate (LIBOR), and has evaluated the hypothetical change in lease obligations held at July 26, 1997 due to changes in the LIBOR rate. The modeling technique used for analysis measured hypothetical changes in lease obligations arising from selected hypothetical changes in the LIBOR rate. Market changes reflected immediate hypothetical parallel shifts in the LIBOR curve of plus or minus 50 BPS, 100 BPS, and 150 BPS over a six-month and a twelve-month period. The results of this analysis were not material to the Company's financial results.

The Company enters into forward foreign exchange contracts to offset the impact of currency fluctuations on certain nonfunctional currency assets and liabilities, primarily denominated in Japanese, Canadian, Australian, and certain European currencies.

The Company generally enters into forward currency contracts that have original maturities of one to three months, with none having a maturity greater than one year in length. The total notional values of forward contracts purchased and forward contracts sold were \$211 million and \$268 million, respectively. The net unrealized gain on forward exchange contracts is \$.6 million. Management does not expect gains or losses on these contracts to have a material impact on the Company's financial results.

FUTURE GROWTH SUBJECT TO RISKS

The networking business is highly competitive, and as such, the Company's growth is dependent upon market growth and its ability to enhance its existing products and introduce new products on a timely basis. One of the ways the Company has addressed and will continue to address the need to develop new products is through acquisitions of other companies. Acquisitions involve numerous risks, including difficulties in assimilation of the operations, technologies, and

MANAGEMENT'S DISCUSSION AND ANALYSIS OF Financial Condition and Results of Operations

products of the acquired companies; the risk of diverting management's attention from normal daily operations of the business; risks of entering markets in which the Company has no or limited direct prior experience and where competitors in such markets have stronger market positions; and the potential loss of key employees of the acquired company. The Company must also maintain its ability to manage any such growth effectively. Failure to manage growth effectively and successfully integrate acquisitions made by the Company could adversely affect the Company's business and operating results.

The markets for the Company's products are characterized by rapidly changing technology, evolving industry standards, frequent new product introductions, and evolving methods of building and operating networks. There can be no assurance that the Company will successfully identify new product opportunities and develop and bring new products to market in a timely manner, or that products and technologies developed by others will not render the Company's products or technologies obsolete or noncompetitive.

The Company expects that in the future, its net sales may grow at a slower rate than was experienced in previous periods, and that on a quarter-to-quarter basis, the Company's growth in net sales may be significantly lower than its historical quarterly growth rate. In the Company's most recent quarters, the sequential sales growth slowed from prior levels, and a disproportionate share of the sales occurred in the last month of the quarter. As a consequence, operating results for a particular quarter are extremely difficult to predict. The Company's ability to meet financial expectations could be hampered if the nonlinear sales pattern continues in future periods. In addition, in response to customer demand, the Company has attempted to reduce its product manufacturing lead times, which may result in corresponding reductions in order backlog. A decline in backlog levels could result in more variability and less predictability in the Company's quarter-to-quarter net sales and operating results going forward. On the other hand, for certain products, lead times are longer than the Company's goal. If the Company cannot reduce manufacturing lead times for such products, the Company's customers may cancel orders or not place further orders if shorter lead times are available from other manufacturers, thus creating additional variability.

Many computer systems were not designed to handle any dates beyond the year 1999, and therefore computer hardware and software will need to be modified prior to the year 2000 in order to remain functional. The Company is concerned that many enterprises will be devoting a substantial portion of their information systems spending to resolving this upcoming year 2000 problem. This may result in spending being diverted from networking solutions over the next three years. Additionally, the Company will have to devote resources to providing the year 2000 solution for its own products. The year 2000 issue could lower demand for the Company's products while increasing the Company's costs. These combining factors could have a material adverse impact on the Company's financial results.

The Company also expects that gross margins may be adversely affected by increases in material or labor costs, heightened price competition, and changes in channels of distribution or in the mix of products sold. For example, the Company believes that gross margins may continue to decline over time, because the sales of lower-margin access and switching products targeted toward small to medium-sized customers have continued to grow at a faster rate than the Company's higher-margin router and high-performance switching products targeted toward enterprise and service provider customers. The Company's gross margins may also be impacted by geographic mix, as well as the mix of configurations within each product group. The Company continues to expand into third-party or indirect distribution

channels, which generally results in lower gross margins. In addition, increasing third-party and indirect distribution channels generally results in greater difficulty in forecasting the mix of the Company's products, and to a certain degree, the timing of its orders.

The Company's growth and ability to meet customer demands also depend in part on its ability to obtain timely deliveries of parts from its suppliers. The Company has experienced component shortages in the past that have adversely affected its operations. Although the Company works closely with its suppliers to avoid these types of shortages, there can be no assurance that the Company will not encounter these problems in the future.

The Company also expects that its operating margins may decrease as it continues to hire additional personnel and increases other operating expenses to support its business. The Company plans its operating expense levels based primarily on forecasted revenue levels. Because these expenses are relatively fixed in the short term, a shortfall in revenue could lead to operating results being below expectations. The results of operations for 1997 are not necessarily indicative of results to be expected in future periods, and the Company's operating results may be subject to quarterly fluctuations as a result of a number of factors. These factors include the integration of people, operations, and products from acquired businesses and technologies; increased competition in the networking industry; the overall trend toward industry consolidation; the introduction and market acceptance of new technologies, including Gigabit Switch Routing and Tag Switching, currently known as multiprotocol label switching (MPLS); variations in sales channels, product costs, or mix of products sold; the timing of orders and manufacturing lead times; and changes in general economic conditions, any of which could have a material adverse impact on operations and financial results.

The Company's corporate headquarters, including most of its research and development operations and its manufacturing facilities, are located in the Silicon Valley area of Northern California, a region known for seismic activity. Additionally, one of the Company's manufacturing facilities is located near a river that has experienced flooding in the past. A significant natural disaster, such as an earthquake or a flood, could have a material adverse impact on the Company's financial results.

LIQUIDITY AND CAPITAL RESOURCES

Cash and equivalents, short-term investments, and investments were \$2.5 billion at July 26, 1997, an increase of \$672 million from 1996. The increase is primarily a result of cash generated by operations, and to a lesser extent, through financing activities, mainly the exercise of employee stock options. These cash flows were partially offset by cash outflows from operating activities including tax payments of approximately \$659 million; cash flows from investing activities including capital expenditures of approximately \$330 million; and cash outflows from financing activities, particularly the Company's stock repurchase of \$323 million.

Accounts receivable increased 87.9% during 1997, while sales grew by 57.2%. Days sales outstanding in receivables increased to 60 days as of July 26, 1997 from 44 days at July 28, 1996. Inventories decreased 15.4% during 1997. Inventory management remains an area of focus as the Company balances the need to maintain strategic inventory levels to ensure competitive lead times versus the risk of inventory obsolescence because of rapidly changing technology and customer requirements.

Accounts payable increased by 34.8% during 1997 because of increases in operating expenses and material purchases to support the growth in net sales. Other accrued liabilities increased by 57.0%, primarily due to higher deferred revenue on service contracts.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF Financial Condition and Results of Operations

At July 26, 1997, the Company had a line of credit totaling \$500 million, which expires in July 2002. There have been no borrowings under this agreement (see Note 6).

The Company has entered into certain lease arrangements in San Jose, California, and Research Triangle Park, North Carolina, where it has established its headquarters operations and certain research and development and customer support activities, respectively. In connection with these transactions, the Company restricted \$363 million of its investments as collateral for certain obligations of the leases. The Company anticipates that it will occupy more leased property in the future that will require similar restricted securities; however, the Company does not expect the impact of this activity to be material to liquidity.

During fiscal 1997, the Company's Board of Directors authorized a stock repurchase program under which 5 million shares of the Company's stock could be reacquired. All 5 million shares were repurchased at an aggregate purchase price of approximately \$323 million and subsequently reissued in connection with the Company's stock plans. However, the Company's ability to repurchase shares has been restricted and is expected to continue to be restricted from time to time due to business combinations and limitations under pooling of interests accounting.

The Company's management believes that its current cash and equivalents, short-term investments, line of credit, and cash generated from operations will satisfy its expected working capital and capital expenditure requirements through fiscal 1998.

CONSOLIDATED STATEMENTS OF OPERATIONS

(in thousands, except per-share amounts)

Years Ended	July 26, 1997	July 28, 1996	July 30, 1995
NET SALES	\$6,440,171	\$4,096,007	\$2,232,652
Cost of sales	2,241,378	1,409,862	742,860
Gross margin	4,198,793	2,686,145	1,489,792
Expenses:			
Research and development	698,172	399,291	210,815
Sales and marketing	1,160,269	726,278	399,983
General and administrative	204,661	159,770	85,271
Purchased research and development	508,397		95,760
Total operating expenses	2,571,499	1,285,339	791,829
OPERATING INCOME	1,627,294	1,400,806	697,963
Realized gains on sale of investment	152,689		
Interest and other income, net	108,889	64,019	40,014
Income before provision for income taxes	1,888,872	1,464,825	737,977
Provision for income taxes	840,193	551,501	281,488
NET INCOME	\$1,048,679	\$ 913,324	\$ 456,489
NET INCOME PER COMMON SHARE	\$ 1.52	\$ 1.37	\$ 0.72
Shares used in per-share calculation	689,319	666,586	630,711

See notes to consolidated financial statements.

CONSOLIDATED BALANCE SHEETS

(in thousands)

	July 26, 1997	July 28, 1996
ASSETS		
Current assets:		
Cash and equivalents	\$ 269,608	\$ 279,695
Short-term investments	1,005,977	758,489
Accounts receivable, net of allowance for doubtful accounts of \$22,340 in 1997 and \$21,074 in 1996	1,170,401	622,859
Inventories, net	254,677	301,188
Deferred income taxes	312,132	101,827
Prepaid expenses and other current assets	88,471	95,582
Total current assets	3,101,266	2,159,640
Investments	1,267,174	832,114
Restricted investments	363,216	228,644
Property and equipment, net	466,352	331,315
Other assets	253,976	78,519
TOTAL ASSETS	\$ 5,451,984	\$ 3,630,232
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 207,178	\$ 153,683
Income taxes payable	256,224	169,894
Accrued payroll and related expenses	263,269	195,197
Other accrued liabilities	393,438	250,579
Total current liabilities	1,120,109	769,353
Commitments and contingencies (Note 7)		
Minority interest	42,253	41,257
Shareholders' equity:		
Preferred stock, no par value, 5,000 shares authorized; none issued or outstanding in 1997 and 1996		
Common stock, no par value, 1,200,000 shares authorized; issued and outstanding: 670,779 shares in 1997 and 649,284 shares in 1996	1,763,200	888,067
Retained earnings	2,487,058	1,777,369
Unrealized gain on investments	49,628	158,848
Cumulative translation adjustments	(10,264)	(4,662)
Total shareholders' equity	4,289,622	2,819,622
TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY	\$ 5,451,984	\$ 3,630,232

See notes to consolidated financial statements.

CONSOLIDATED STATEMENTS OF CASH FLOWS

(in thousands)

YEARS ENDED	JULY 26, 1997	JULY 28, 1996	JULY 30, 1995
Cash flows from operating activities:			
Net income	\$ 1,048,679	\$ 913,324	\$ 456,489
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	212,200	132,594	74,961
Provision for doubtful accounts	13,318	18,548	15,213
Provision for inventory allowances	123,431	53,025	55,783
Deferred income taxes	(185,944)	(74,292)	(74,856)
Tax benefits from employee stock plans	274,341	198,468	59,348
Adjustment to conform StrataCom fiscal year	(11,020)		
Purchased research and development from acquisitions	273,532		
Change in operating assets and liabilities:			
Accounts receivable	(558,664)	(219,628)	(181,083)
Inventories	(74,374)	(272,408)	(104,484)
Prepaid expenses and other current assets	7,332	(67,154)	(16,725)
Accounts payable	52,225	93,773	22,605
Income taxes payable	86,230	97,924	27,976
Accrued payroll and related expenses	66,375	101,221	43,485
Other accrued liabilities	114,462	87,331	64,121
NET CASH PROVIDED BY OPERATING ACTIVITIES	1,442,123	1,062,726	442,833
Cash flows from investing activities:			
Purchases of short-term investments	(1,430,556)	(786,197)	(341,578)
Proceeds from sales and maturities of short-term investments	1,276,379	641,974	295,234
Purchases of investments	(1,761,952)	(809,098)	(289,569)
Proceeds from sales and maturities of investments	1,052,363	219,178	228,680
Purchases of restricted investments	(351,168)	(164,624)	(160,396)
Proceeds from sales and maturities of restricted investments	218,948	115,429	100,472
Acquisition of property and equipment	(330,297)	(282,840)	(151,828)
Acquisition of businesses, net of cash acquired and purchased research and development	(18,642)		(17,920)
Other	(59,083)	8,337	5,273
NET CASH USED IN INVESTING ACTIVITIES	(1,404,008)	(1,057,841)	(331,632)
Cash flows from financing activities:			
Issuance of common stock	280,212	116,554	135,348
Common stock repurchases	(322,812)	(115,621)	(69,881)
Proceeds from sale of subsidiary stock			40,548
Other	(5,602)	(10,511)	6,007
NET CASH (USED IN) PROVIDED BY FINANCING ACTIVITIES	(48,202)	(9,578)	112,022
Net (decrease) increase in cash and equivalents	(10,087)	(4,693)	223,223
Cash and equivalents, beginning of period	279,695	284,388	61,165
CASH AND EQUIVALENTS, END OF PERIOD	\$ 269,608	\$ 279,695	\$ 284,388
Non-cash investing and financing activities are as follows:			
Transfers of securities to restricted investments	\$ --	\$ 3,586	\$ 27,249

See notes to consolidated financial statements.

CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY

(in thousands)

	COMMON STOCK		RETAINED EARNINGS	UNREALIZED GAIN ON INVESTMENTS	CUMULATIVE TRANSLATION ADJUSTMENTS	TOTAL SHAREHOLDERS' EQUITY
	NUMBER OF SHARES	AMOUNT				
BALANCES JULY 31, 1994	578,565	\$ 282,678	\$621,802		\$(158)	\$904,322
Issuance of common stock under stock option and purchase plans	15,733	53,660				53,660
Issuance of common stock in conjunction with secondary offering by StrataCom	6,900	81,688				81,688
Tax benefits from employee stock plans		59,348				59,348
Common stock repurchases	(4,188)	(2,073)	(67,808)			(69,881)
Pooling of interests acquisitions	20,166	33,373	(13,678)			19,695
Change in unrealized gains on investments				\$50,948		50,948
Net income			456,489			456,489
Translation adjustments					6,007	6,007
BALANCES JULY 30, 1995	617,176	508,674	996,805	50,948	5,849	1,562,276
Issuance of common stock under stock option and purchase plans	19,072	116,554				116,554
Tax benefits from employee stock plans		198,468				198,468
Common stock repurchases	(3,060)	(3,876)	(111,745)			(115,621)
Acquisitions of businesses	16,096	68,247	(21,015)			47,232
Change in unrealized gains on investments				107,900		107,900
Net income			913,324			913,324
Translation adjustments					(10,511)	(10,511)
BALANCES JULY 28, 1996	649,284	888,067	1,777,369	158,848	(4,662)	2,819,622

See notes to consolidated financial statements.

CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY

(in thousands)

	COMMON STOCK		RETAINED EARNINGS	UNREALIZED GAIN ON INVESTMENTS	CUMULATIVE TRANSLATION ADJUSTMENTS	TOTAL SHAREHOLDERS' EQUITY
	NUMBER OF SHARES	AMOUNT				
BALANCES JULY 28, 1996	649,284	888,067	1,777,369	158,848	(4,662)	2,819,622
Issuance of common stock under stock option and purchase plans	18,841	280,212				280,212
Tax benefits from employee stock plans		274,341				274,341
Common stock repurchases	(5,000)	(9,590)	(313,222)			(322,812)
Pooling of interests acquisitions	3,814	6,504	(14,748)			(8,244)
Purchase acquisitions	3,840	323,666				323,666
Change in unrealized gains on investments				(109,220)		(109,220)
Adjustment to conform StrataCom fiscal year			(11,020)			(11,020)
Net income			1,048,679			1,048,679
Translation adjustments					(5,602)	(5,602)
BALANCES JULY 26, 1997	670,779	\$1,763,200	\$2,487,058	\$49,628	\$(10,264)	\$4,289,622

See notes to consolidated financial statements.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. DESCRIPTION OF BUSINESS

Cisco Systems, Inc. (the "Company") provides networking solutions that connect computing devices and computer networks, allowing people to access or transfer information without regard to differences in time, place, or type of computer system. The Company sells its products in approximately 90 countries through a combination of direct sales and reseller and distribution channels.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

FISCAL YEAR The Company's fiscal year is the 52 or 53 weeks ending on the last Saturday in July. The fiscal years ended July 26, 1997, July 28, 1996, and July 30, 1995 all comprised 52-week years. Prior to fiscal year 1997, the Company's fiscal year was the 52- or 53-week period ending on the last Sunday in July.

PRINCIPLES OF CONSOLIDATION The consolidated financial statements include the accounts of Cisco Systems, Inc. and its subsidiaries. All significant intercompany accounts and transactions have been eliminated.

CASH AND EQUIVALENTS The Company considers cash and all highly liquid investments purchased with an original or remaining maturity of less than three months at the date of purchase to be cash equivalents. Substantially all of its cash and equivalents are custodied with three major financial institutions.

SHORT-TERM INVESTMENTS The Company's short-term investments comprise U.S., state, and municipal government obligations, and foreign and corporate securities with maximum maturities of one year. These investments are carried at fair value. Nearly all short-term investments are held in the Company's name and custodied with two major financial institutions.

INVENTORIES Inventories are stated at the lower of cost or market. Cost is computed using standard cost, which approximates actual cost on a first-in, first-out basis.

INVESTMENTS Investments consist of U.S., state, and municipal government obligations, and foreign and corporate securities with maturities of more than one year. These investments are carried at fair value. Nearly all investments are held in the Company's name and custodied with two major financial institutions.

RESTRICTED INVESTMENTS Restricted investments consist of U.S. governmental obligations with maturities of more than one year. These investments are carried at fair value and are restricted as to withdrawal (see Note 7). Restricted investments are held in the Company's name and custodied with two major financial institutions.

FAIR VALUE OF FINANCIAL INSTRUMENTS Carrying amounts of certain of the Company's financial instruments including cash and equivalents, accrued payroll, and other accrued liabilities approximate fair value because of their short maturities. The fair values of investments are determined using quoted market prices for those securities or similar financial instruments (see Note 5 on investments).

CONCENTRATIONS Cash and equivalents are, for the most part, maintained with several major financial institutions in the United States. Deposits held with banks may exceed the amount of insurance provided on such deposits. Generally these deposits may be redeemed upon demand and therefore, bear minimal risk.

The Company performs ongoing credit evaluations of its customers and generally does not require collateral from its customers.

The Company receives certain of its custom semiconductor chips for some of its products from sole suppliers. Additionally, the Company relies on a limited number of hardware manufacturers. The inability of any supplier or manufacturer to fulfill supply requirements of the Company could impact future results. The Company continually monitors exposures in this regard.

REVENUE RECOGNITION The Company generally recognizes product revenue upon shipment of product. Revenue from service obligations is deferred and recognized over the lives of the contracts. The Company accrues for warranty costs, sales returns, and other allowances at the time of shipment based on its experience.

DEPRECIATION AND AMORTIZATION Property and equipment are stated at cost and depreciated on a straight-line basis over the estimated useful lives of the assets. Such lives vary from two and one-half to five years. Goodwill and other intangible assets are included in other assets and are carried at cost less accumulated amortization, which is being provided on a straight-line basis over the economic lives of the respective assets, generally three to five years.

INCOME TAXES Income tax expense is based on pretax financial accounting income. Deferred tax assets and liabilities are recognized for the expected tax consequences of temporary differences between the tax bases of assets and liabilities and their reported amounts.

COMPUTATION OF NET INCOME PER COMMON SHARE Net income per common share is computed using the weighted average number of common and dilutive common equivalent shares outstanding during the period. Dilutive common equivalent shares consist of stock options.

FOREIGN CURRENCY TRANSLATION Substantially all of the Company's international subsidiaries use their local currency as their functional currency. For those subsidiaries using the local currency as their functional currency, assets and liabilities are translated at exchange rates in effect at the balance sheet date and income and expense accounts at average exchange rates during the year. Resulting translation adjustments are recorded directly to a separate component of shareholders' equity. Where the U.S. dollar is the functional currency, translation adjustments are recorded in income.

DERIVATIVES The Company enters into forward exchange contracts to minimize the short-term impact of foreign currency fluctuations on assets and liabilities denominated in currencies other than the functional currency of the reporting entity. All foreign exchange forward contracts are designated as and effective as a hedge and are highly inversely correlated to the hedged item as required by generally accepted accounting principles.

Gains and losses on the contracts are included in other income and offset foreign exchange gains or losses from the revaluation of intercompany balances or other current assets and liabilities denominated in currencies other than the functional currency of the reporting entity. Fair values of exchange contracts are determined using published rates. If a derivative contract terminates prior to maturity, the investment is shown at its fair value with the resulting gain/(loss) reflected in operating results.

MINORITY INTEREST Minority interest represents the minority stockholders' proportionate share of the equity of Nihon Cisco Systems, K.K. At July 26, 1997, the Company maintained all issued and outstanding common stock, amounting to 73.2% of the voting rights. Each share of preferred stock is convertible into one share of common stock at any time at the option of the holder.

USE OF ESTIMATES The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Estimates are used for, but not limited to, the accounting for doubtful accounts, depreciation and amortization, sales returns, warranty costs, taxes, and contingencies. Actual results could differ from these estimates.

RECENT ACCOUNTING PRONOUNCEMENTS In February 1997, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standard (SFAS) No. 128, "Earnings per Share" (EPS), which simplifies existing computational guidelines, revises disclosure requirements, and increases the comparability of earnings per share on an international basis. Management has not yet evaluated the effects of this change in computational guidelines on the Company's EPS. SFAS No. 128 is effective for periods ending after December 15, 1997 and requires restatement of all prior period EPS data presented. The Company will adopt SFAS No. 128 in its second quarter of fiscal year 1998.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

In June 1997, the FASB issued SFAS No. 130, "Reporting Comprehensive Income," which establishes standards for reporting and display of comprehensive income and its components (revenue, expenses, gains, and losses) in a full set of general-purpose financial statements. The Company will adopt SFAS No. 130 in its fiscal year 1999.

In June 1997, the FASB issued SFAS No. 131, "Disclosure about Segments of an Enterprise and Related Information," which changes the way public companies report information about operating segments. SFAS No. 131, which is based on the management approach to segment reporting, establishes requirements to report selected segment information quarterly and to report entity-wide disclosures about products and services, major customers, and the material countries in which the entity holds assets and reports revenue. Management has not yet evaluated the effects of this change on its reporting of segment information. The Company will adopt SFAS No. 131 in its fiscal year 1999.

3. BUSINESS COMBINATIONS

Pooling of Interests Combinations

On July 9, 1996, the Company acquired StrataCom, Inc. ("StrataCom"). Under the terms of the agreement, one share of the Company's common stock was exchanged for each outstanding share of StrataCom. Approximately 76.4 million shares of common stock were issued to acquire StrataCom.

The Company also assumed remaining outstanding StrataCom stock options that were converted to options to purchase approximately 11.5 million shares of the Company's common stock. The transaction was accounted for as a pooling of interests in fiscal year 1996; therefore, all prior periods presented were restated.

Prior to the merger, StrataCom used a calendar year end. Restated financial statements of the Company combine the July 28, 1996, and July 30, 1995 results of the Company with the June 30, 1996, and July 1, 1995 results of StrataCom, respectively. No adjustments have been made to conform accounting policies of the entities. However, StrataCom's historical results have been adjusted to reflect an increase in income taxes because of the elimination of a previously provided valuation allowance on its deferred tax asset as of the earliest period presented. There were no significant intercompany transactions requiring elimination in any period presented. In order for both companies to operate on the same fiscal year for 1997, StrataCom's operations for the one-month period ended July 28, 1996 that are not material to the consolidated companies have been reflected as an adjustment to retained earnings in the first quarter of fiscal 1997.

The Company has also completed a number of other pooling acquisitions. The historical operations of these entities is immaterial to the Company's consolidated operations on either an individual or an aggregated basis; therefore, prior period statements have not been restated for these acquisitions. These transactions are summarized as follows (in millions of shares):

FISCAL YEAR	ACQUIRED COMPANIES	TOTAL SHARES OF CISCO STOCK ISSUED
1995	Newport Systems Solutions, Inc.	6.6
	Kalpana, Inc.	13.6
1996	Combinet, Inc.	3.5
	Grand Junction Networks, Inc.	9.2
	TGV Software, Inc.	2.4
1997	Nashoba Networks	1.6
	Granite Systems, Inc.	2.2

In conjunction with these poolings, the Company also assumed the outstanding options of these companies, which were converted to options to purchase approximately 3.6 million shares of the Company's common stock.

PURCHASE COMBINATIONS

During the three years ended July 26, 1997, the Company made the acquisitions described in the paragraphs that follow, each of which has been accounted for as a purchase. The consolidated financial statements include the operating results of each business from the date of acquisition. Pro forma results of operations have not been presented, because the effects of these acquisitions were not material on either an individual or an aggregate basis.

The amounts allocated to purchased research and development were determined through established valuation techniques in the high-technology communications industry and were expensed upon acquisition, because technological feasibility had not been established and no future alternative uses existed. Research and development costs to bring the products from the acquired companies to technological feasibility are not expected to have a material impact on the Company's future results of operations or cash flows. Amounts allocated to goodwill and other intangibles are amortized on a straight-line basis up to a five-year period.

In January 1995, the Company acquired substantially all of the assets and assumed the liabilities of LightStream Corporation ("LightStream"), a developer of enterprise-class ATM switching technology, for \$120.0 million in cash and related acquisition costs of approximately \$.5 million.

The purchase price was allocated to the acquired assets and assumed liabilities based on fair values as follows (in thousands):

Cash	\$	6,320
Accounts receivable		2,777
Other current assets		101
Property and equipment		1,815
Purchased research and development		95,760
Goodwill		19,710
Current liabilities		(5,983)

Total		\$120,500

The remaining amounts allocated to goodwill after the \$5.1 million write-off in fiscal 1996 were amortized on a straight-line basis over two years.

In October 1996, the Company acquired substantially all of the assets of Telebit Corporation ("Telebit") and its Modem ISDN Channel Aggregation (MICA(TM)) technologies for approximately \$200.0 million in cash. The Company purchased Telebit patents and MICA intellectual property, established employment contracts with MICA personnel, and assumed certain preferred stock and notes receivable related to a management buyout of the remaining assets of Telebit. As part of this transaction, the Company recorded approximately \$174.6 million in purchased research and development expense in the first quarter of fiscal 1997.

In November 1996, the Company acquired Netsys Technologies ("Netsys"), a privately held innovator of network infrastructure management and performance analysis software. Under the terms of the agreement, the Company exchanged common stock worth approximately \$81.1 million and assumed net liabilities of approximately \$3.8 million for all outstanding shares and options of Netsys. As part of this transaction, the Company recorded approximately \$43.2 million in purchased research and development expense and \$41.7 million of goodwill and other intangible assets in the second quarter of fiscal 1997.

In July 1997, the Company completed the acquisition of Skystone Systems Corporation ("Skystone"), an innovator of high-speed Synchronous Optical Network/Synchronous Digital Hierarchy (SONET/SDH). Under the terms of the agreement, shares of the Company's common stock worth approximately \$69.4 million, and \$22.7 million in cash has been exchanged for all outstanding shares, warrants, and options of Skystone. As part of this transaction, the Company recorded approximately \$89.4 million in purchased research and development expense.

In July 1997, the Company acquired Ardent Communications ("Ardent"), a designer of combined communications support for compressed voice, LAN, data, and video traffic across public and private Frame Relay and ATM networks. Under the terms of the agreement, shares of the Company's stock worth approximately \$165.3 million have been exchanged for the outstanding shares and options of Ardent. As part of this transaction, the Company recorded approximately \$163.6 million in purchased research and development expense.

Also in July 1997, the Company acquired Global Internet Software Group ("Global Internet"), a wholly owned subsidiary of Global Internet.Com and a pioneer in the Windows NT network security marketplace. Approximately \$40.2 million in cash was exchanged for all of the outstanding shares of Global Internet. As part of this transaction, the Company recorded approximately \$37.6 million in purchased research and development expense.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

BUSINESS COMBINATIONS COMPLETED SUBSEQUENT TO YEAR-END

On July 28, 1997, the Company entered into an agreement to purchase the Dagaz xDSL business of Integrated Network Corporation ("INC"). The Company agreed to pay approximately \$108.0 million in cash for the xDSL business. As part of this transaction, the Company assumed approximately .2 million shares of INC stock options, which will be converted to options to purchase the Company's common stock. This transaction was completed in August 1997.

4. BALANCE SHEET DETAIL

(IN THOUSANDS)	JULY 26, 1997	JULY 28, 1996

Inventories, net:		
Raw materials	\$ 89,226	\$ 134,531
Work in process	114,724	99,723
Finished goods	21,733	51,920
Demonstration systems	28,994	15,014

Total	\$ 254,677	\$ 301,188
=====		
Property and equipment, net:		
Leasehold improvements	\$ 88,801	\$ 40,927
Computer equipment and related software	394,735	280,777
Production and engineering equipment	108,520	108,477
Office equipment, furniture, fixtures, and other	290,129	145,291

	882,185	575,472
Less accumulated depreciation and amortization	(415,833)	(244,157)

Total	\$ 466,352	\$ 331,315
=====		
Accrued payroll and related expenses:		
Accrued wages, paid time off, and related expenses	\$ 127,779	\$ 97,780
Accrued commissions	66,851	33,589
Accrued bonuses	68,639	63,828

Total	\$ 263,269	\$ 195,197
=====		
Other accrued liabilities:		
Deferred revenue	\$ 183,268	\$ 116,229
Accrued warranties	41,526	32,256
Other liabilities	168,644	102,094

Total	\$ 393,438	\$ 250,579
=====		

5. INVESTMENTS

At July 26, 1997 and July 28, 1996, substantially all of the Company's investments were classified as available for sale. The difference between the cost and fair value of those investments, net of the tax effect, is shown as a separate component of shareholders' equity.

The following tables summarize the Company's investment in securities (in thousands):

JULY 26, 1997	AMORTIZED COST	GROSS UNREALIZED GAINS	GROSS UNREALIZED LOSSES	FAIR VALUE
U.S. government notes and bonds	\$ 609,580	\$ 1,407	\$ (960)	\$ 610,027
State, municipal, and county government notes and bonds	1,313,652	6,214	(755)	1,319,111
Foreign government notes and bonds	31,565	29	(111)	31,483
Corporate notes and bonds	562,039	594	(589)	562,044
Corporate equity securities	40,759	89,390	(16,447)	113,702
Total	\$2,557,595	\$97,634	\$(18,862)	\$2,636,367

Reported as:				
Short-term investments				\$1,005,977
Investments				1,267,174
Restricted investments				363,216
Total				\$2,636,367

JULY 28, 1996	AMORTIZED COST	GROSS UNREALIZED GAINS	GROSS UNREALIZED LOSSES	FAIR VALUE
U.S. government notes and bonds	\$ 445,539	\$ 192	\$ (2,911)	\$ 442,820
State, municipal, and county government notes and bonds	1,023,399	1,448	(5,860)	1,018,987
Foreign government notes and bonds	2,498	42		2,540
Corporate notes and bonds	62,766	99	(134)	62,731
Corporate equity securities	30,900	357,049	(95,780)	292,169
Total	\$1,565,102	\$358,830	\$(104,685)	\$1,819,247

Reported as:				
Short-term investments				\$ 758,489
Investments				832,114
Restricted investments				228,644
Total				\$1,819,247

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

The following table summarizes debt maturities (including restricted investments) at July 26, 1997 (in thousands):

	AMORTIZED COST	FAIR VALUE
Less than one year	\$1,269,663	\$1,270,079
Due in 1-2 years	516,523	517,457
Due in 2-5 years	694,504	699,411
Due after 5 years	36,146	35,718
Total	\$2,516,836	\$2,522,665

During fiscal year 1997, the Company began to sell its minority equity position in a publicly traded company. A hedge was formed to protect the unrealized gains the Company had earned while holding this investment. The hedge took the form of a cashless collar and was constructed as a series of purchased puts and sold calls, with the cost of the purchased puts exactly offset by the premium earned on the sold calls. The total face values of the puts and calls at July 26, 1997 were \$16.5 million and \$21.1 million, respectively. The collar expires over a period of two years commencing October 1996. Net unrealized gains or losses for the stock and associated hedge are reflected as a separate component of shareholders' equity. Realized gains or losses on the combined position have been reflected in income for the period in which the stock was sold or the hedge was terminated. Also in fiscal 1997, the Company established the Cisco Systems Foundation ("the Foundation"). As part of this initiative, the Company donated a portion of this investment, along with other equity securities, with a combined cost basis of approximately \$2.3 million and an approximate fair value of \$71.5 million at July 26, 1997, to the Foundation. The realized gains on the sale of this investment, net of the amounts donated to the Foundation, were \$152.7 million in fiscal 1997. The Company expects to sell its remaining stake in the publicly traded company in fiscal year 1998 and will realize additional gains.

There were no material realized gains in fiscal years 1996 and 1995. Gross realized gains and losses on the sale of investments are calculated using the specific identification method.

6. LINE OF CREDIT

In July 1997, the Company entered into a syndicated credit agreement under the terms of which a group of banks has committed a maximum of \$500.0 million on an unsecured, revolving basis for cash borrowings of various maturities. The commitments made under this agreement expire on July 1, 2002. This agreement replaces an earlier, three-year, \$100.0 million credit agreement entered into on May 22, 1995. Under the terms of the new agreement, borrowings bear interest at a spread over the London Interbank Offered Rate based on certain financial criteria and third-party rating assessments or other alternative rates. As of July 26, 1997, this spread was 20 basis points. A commitment fee of 7 basis points is assessed against any undrawn amounts. The agreement includes a single financial covenant that places a variable floor on tangible net worth, as defined, if certain leverage ratios are exceeded. There have been no borrowings under this or the previous agreement.

7. COMMITMENTS AND CONTINGENCIES

LEASES

The Company has entered into several agreements to lease 221 acres of land located in San Jose, California, where it has established its headquarters operations, and 45 acres of land located in Research Triangle Park, North Carolina, where it has expanded certain research and development and customer support activities. All of the leases have initial terms of five to seven years and options to renew for an additional three to five years, subject to certain conditions. At any time during the terms of these land leases, the Company may purchase the land. If the Company elects not to purchase the land at the end of each of the leases, the Company has guaranteed a residual value of \$124.1 million.

The Company has also entered into agreements to lease certain buildings to be constructed on the land described above. The lessors of the buildings have committed to fund up to a maximum of \$341.6 million (subject to reductions based on certain conditions in the respective leases) for the construction of the buildings, with the portion of the committed amount actually used to be determined by the Company. Rent obligations for the buildings commenced on various dates and will expire at the same time as the land leases.

The Company has an option to renew the building leases for an additional three to five years, subject to certain conditions. The Company may, at its option, purchase the buildings during or at the ends of the terms of the leases at approximately the amount expended by the lessors to construct the buildings. If the Company does not exercise the purchase options by the ends of the leases, the Company will guarantee a residual value of the buildings as determined at the lease inception date of each agreement (approximately \$186.6 million at July 26, 1997).

As part of the above lease transactions, the Company restricted \$363.2 million of its investment securities as collateral for specified obligations of the lessor under the leases. These investment securities are restricted as to withdrawal and are managed by a third party subject to certain limitations under the Company's investment policy. In addition, the Company must maintain a minimum consolidated tangible net worth, as defined, of \$1 billion.

The Company also leases office space in Santa Clara, California; Chelmsford, Massachusetts; and for its various U.S. and international sales offices.

Future annual minimum lease payments under all noncancelable operating leases as of July 26, 1997, are as follows (in thousands):

1998	\$ 65,876
1999	54,531
2000	41,530
2001	29,710
2002	17,895
Thereafter	39,513
Total minimum lease payments	\$249,055

Rent expense totaled \$64.4 million, \$36.8 million, and \$24.0 million for 1997, 1996, and 1995, respectively.

FORWARD EXCHANGE CONTRACTS

The Company conducts business on a global basis in several major international currencies. As such, it is exposed to adverse movements in foreign currency exchange rates. The Company enters into forward foreign exchange contracts to reduce certain currency exposures. These contracts hedge exposures associated with nonfunctional currency assets and liabilities denominated in Japanese, Canadian, Australian, and several European currencies. At the present time, the Company hedges only those currency exposures associated with certain nonfunctional currency assets and liabilities and does not generally hedge anticipated foreign currency cash flows.

The Company does not enter into forward exchange contracts for trading purposes. Gains and losses on the contracts are included in other income and offset foreign exchange gains or losses from the revaluation of intercompany balances or other current assets and liabilities denominated in currencies other than the functional currency.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

of the reporting entity. The Company's forward currency contracts generally range from one to three months in original maturity. Forward exchange contracts outstanding and their unrealized gains and (losses) as of July 26, 1997 are summarized as follows (in thousands):

	NOTIONAL VALUE PURCHASED	NOTIONAL VALUE SOLD	UNREALIZED GAIN/ (LOSS)
Japanese yen	\$ 36,150	\$ (84,483)	\$ 111
Australian dollar	33,171	(58,072)	521
Canadian dollar	--	(42,021)	15
European currencies	142,036	(83,225)	(74)
Total	\$ 211,357	\$(267,801)	\$ 573

The Company's forward exchange contracts contain credit risk in that its banking counterparties may be unable to meet the terms of the agreements. The Company minimizes such risk by limiting its counterparties to major financial institutions. In addition, the potential risk of loss with any one party resulting from this type of credit risk is monitored. Management does not expect any material losses as a result of default by other parties.

LEGAL PROCEEDINGS

The Company and its subsidiaries are subject to legal proceedings, claims, and litigation arising in the ordinary course of business. The Company's management does not expect that the ultimate costs to resolve these matters will have a material adverse effect on the Company's consolidated financial position, results of operations, or cash flows.

8. SHAREHOLDERS' EQUITY

The Company's common stock was split two for one on February 16, 1996. All applicable share and per-share data in these consolidated financial statements have been restated to give effect to this stock split.

Under the terms of the Company's Articles of Incorporation, the Board of Directors may determine the rights, preferences, and terms of the Company's authorized but unissued shares of preferred stock.

9. EMPLOYEE BENEFIT PLANS

EMPLOYEE STOCK PURCHASE PLAN

The Company has an Employee Stock Purchase Plan ("the Purchase Plan") under which 9.8 million shares of common stock have been reserved for issuance. Eligible employees may designate not more than 10% of their cash compensation to be deducted each pay period for the purchase of common stock under the Purchase Plan, and participants may purchase not more than \$25,000 of common stock in any one calendar year. On the last business day of each calendar quarter, shares of common stock are purchased with the employees' payroll deductions over the immediately preceding six months at a price per share of 85% of the lesser of the market price of the common stock on the purchase date or the market price on the first day of the period. The Purchase Plan will terminate no later than January 3, 2000. In fiscal 1997, 1996, and 1995, 1.4 million, 1.3 million, and 1.5 million shares, respectively, were issued under the Purchase Plan. At July 26, 1997, 2.0 million shares were available for issuance under the Purchase Plan.

STOCK OPTION PLANS

In November 1996, the Company's shareholders approved the 1996 Stock Incentive Plan (the "1996 Plan"). This plan was the successor to the Company's 1987 Stock Option Plan (the "Predecessor Plan"). The 1996 Plan became effective immediately upon shareholder approval, and all outstanding options under the Predecessor Plan were transferred to the 1996 Plan. However, all outstanding options under the Predecessor Plan continue to be governed by the terms and conditions of the existing option agreements for those grants. The maximum number of shares under the 1996 Plan was initially limited to the 68.8 million shares transferred from the Predecessor Plan. Under the terms of the 1996 Plan, the share reserve will increase each December for the next three fiscal years, beginning with fiscal 1997, by an amount equal to 4.75% of the outstanding shares on the last trading day of the immediately preceding November. Although the Board has the authority to set other terms, the options are generally 25% exercisable one year from the date of grant and then ratably over the following 36 months.

Under the Predecessor Plan, the options generally had terms of five years. Under the 1996 Plan, options expire no later than nine years from the grant date.

A summary of option activity follows (in thousands, except per-share amounts):

	OPTIONS AVAILABLE FOR GRANT	OPTIONS OUTSTANDING	
		OPTIONS	WEIGHTED AVERAGE EXERCISE PRICE
BALANCES JULY 31, 1994	19,196	33,508	\$ 7.91
Options granted and assumed	(36,792)	36,792	16.94
Options exercised		(14,232)	2.66
Options canceled	2,207	(2,207)	12.13
Additional shares reserved	12,474		
BALANCES JULY 30, 1995	(2,915)	53,861	15.29
Options granted and assumed	(35,170)	35,170	25.33
Options exercised		(17,771)	4.74
Options canceled	2,171	(2,171)	20.33
Additional shares reserved	52,170		
BALANCES JULY 28, 1996	16,256	69,089	22.96
Options granted and assumed	(42,402)	42,402	48.91
Options exercised		(17,483)	12.76
Options canceled	4,673	(4,673)	34.37
Additional shares reserved	31,815		
BALANCES JULY 26, 1997	10,342	89,335	\$36.68

At July 26, 1997 and July 28, 1996, approximately 24.8 million and 21.7 million outstanding options, respectively, were exercisable. The weighted average exercise prices for options were \$20.66 and \$11.42 at July 26, 1997 and July 28, 1996, respectively.

The Company has, in connection with the acquisition of various companies, assumed the stock option plans of each acquired company. A total of 4.6 million shares of the Company's common stock have been reserved for issuance under the assumed plans, and the related options are included in the preceding table.

The following tables summarize information concerning outstanding and exercisable options at July 26, 1997 (in thousands, except per-share amounts):

RANGE OF EXERCISE PRICES	NUMBER OUTSTANDING	OPTIONS OUTSTANDING	
		WEIGHTED AVERAGE REMAINING CONTRACTUAL LIFE (IN YEARS)	WEIGHTED AVERAGE EXERCISE PRICE
\$ 0.01-16.62	18,807	2.6	\$10.48
16.69-34.15	18,136	4.9	25.20
34.32-46.50	21,948	8.2	44.09
47.75-52.25	19,617	8.1	50.47
53.37-75.50	10,827	8.3	61.39
Total	89,335	6.4	\$36.68

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

RANGE OF EXERCISE PRICES	OPTIONS EXERCISABLE	
	NUMBER EXERCISABLE	WEIGHTED AVERAGE EXERCISE PRICE
\$ 0.01-16.62	12,290	\$ 9.30
16.69-34.15	8,135	24.48
34.32-46.50	2,442	39.18
47.75-52.25	1,236	50.86
53.37-75.50	745	55.51
Total	24,848	\$20.66

The Company has adopted SFAS No. 123, "Accounting for Stock-Based Compensation," issued in October of 1995. In accordance with SFAS No. 123, the Company applies APB Opinion 25 and related Interpretations in accounting for its stock option plans, and accordingly does not record compensation costs. If the Company had elected, beginning in fiscal 1996, to recognize compensation cost based on the fair value of the options granted at grant date as prescribed by SFAS No. 123, net income and net income per common share would have been reduced to the pro forma amounts shown below (in thousands, except per-share amounts):

	1997	1996
Net income--as reported	\$ 1,048,679	\$ 913,324
Net income--pro forma	\$ 897,939	\$ 872,263
Net income per common share--as reported	\$ 1.52	\$ 1.37
Net income per common share--pro forma	\$ 1.32	\$ 1.32

The fair value of each option grant is estimated on the date of grant using the Black-Scholes option pricing model with the following weighted average assumptions:

	EMPLOYEE STOCK OPTIONS		EMPLOYEE STOCK PURCHASE PLAN	
	1997	1996	1997	1996
Expected dividend yield	0.0%	0.0%	0.0%	0.0%
Risk-free interest rate	6.4%	5.9%	5.3%	5.4%
Expected volatility	32.8%	32.9%	44.4%	44.9%
Expected life (in years)	3.1	3.1	0.5	0.5

The Black-Scholes option valuation model was developed for use in estimating the fair value of traded options that have no vesting restrictions and are fully transferable. In addition, option valuation models require the input of highly subjective assumptions including the expected stock price volatility. Because the Company's employee stock options have characteristics significantly different from those of traded options, and because changes in the subjective input assumptions can materially affect the fair value estimate, in management's opinion the existing models do not necessarily provide a reliable single measure of the fair value of the Company's options. The weighted average estimated fair values of employee stock options granted during fiscal 1997 and 1996 were \$15.60 and \$13.34 per share, respectively.

The above pro forma disclosures are not likely to be representative of the effects on net income and net income per common share in future years, because they do not take into consideration pro forma compensation expense related to grants made prior to the Company's fiscal year 1996.

EMPLOYEE 401(k) PLAN

The Company has adopted a plan known as the Cisco Systems, Inc. 401(k) Plan ("the Plan") to provide retirement and incidental benefits for its employees. As allowed under Section 401(k) of the Internal Revenue Code, the Plan provides tax-deferred salary deductions for eligible employees.

Employees may contribute from 1% to 15% of their annual compensation to the Plan, limited to a maximum annual amount as set periodically by the Internal Revenue Service. The Company matches employee contributions dollar for dollar up to a maximum of \$1,500 per year per person. All matching contributions vest immediately. In addition, the Plan provides for discretionary contributions as determined by the Board of Directors. Such contributions to the Plan are allocated among eligible participants in the proportion of their salaries to the total salaries of all participants. Company matching contributions to the Plan totaled \$12.6 million in 1997, \$6.6 million in 1996, and \$3.5 million in 1995. No discretionary contributions were made in 1997, 1996, or 1995.

10. INCOME TAXES

The provision (benefit) for income taxes consists of (in thousands):

	1997	1996	1995
Federal:			
Current	\$ 845,254	\$ 514,050	\$ 288,656
Deferred	(171,571)	(64,133)	(63,310)
	673,683	449,917	225,346
State:			
Current	153,110	92,291	59,927
Deferred	(15,043)	(6,907)	(9,968)
	138,067	85,384	49,959
Foreign:			
Current	27,773	19,452	7,761
Deferred	670	(3,252)	(1,578)
	28,443	16,200	6,183
Total provision	\$ 840,193	\$ 551,501	\$ 281,488

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

The Company paid income taxes of \$658.7 million, \$335.1 million, and \$270.5 million, in fiscal 1997, 1996, and 1995, respectively.

The items accounting for the difference between income taxes computed at the federal statutory rate and the provision for income taxes follow:

	1997	1996	1995
Federal statutory rate	35.0%	35.0%	35.0%
Effect of:			
State taxes, net of federal benefit	4.5	3.6	4.1
Foreign sales corporation	(3.3)	(2.9)	(2.9)
Nondeductible purchased R&D	7.1		
Tax-exempt interest	(1.0)	(1.0)	(1.1)
Tax credits	(1.3)	(0.3)	(1.1)
Other, net	3.5	3.2	4.1
	44.5%	37.6%	38.1%

The components of the deferred income tax assets (liabilities) follow (in thousands):

	JULY 26, 1997	JULY 28, 1996
Other nondeductible accruals	\$ 125,010	\$ 66,950
Inventory allowances and capitalization	89,984	44,334
Purchased research and development	81,115	33,806
Allowance for doubtful accounts and returns	38,008	26,632
Accrued state franchise tax	29,231	13,847
Depreciation	11,031	10,451
Deferred revenue	16,629	8,664
Warranty accruals	16,290	8,406
Unrealized gain on investments	(29,146)	(95,296)
	\$ 378,152	\$ 117,794

The noncurrent portion of the deferred income tax assets, which totaled \$66.0 million at July 26, 1997 and \$16.0 million at July 28, 1996, is included in other assets.

The Company's income taxes payable for federal, state, and foreign purposes have been reduced by the tax benefits of disqualifying dispositions of stock options. The benefit is the difference between the market value of the stock issued at the time of exercise and the option price tax effected.

11. GEOGRAPHIC INFORMATION AND MAJOR CUSTOMERS The Company operates in a single industry segment encompassing the design, development, manufacture, marketing, and technical support of networking products and services.

In 1997, 1996, and 1995, no single customer accounted for 10% or more of the Company's net sales. International sales, primarily in Europe, the Pacific region, and Canada, were \$2,803 million in 1997, \$1,976 million in 1996, and \$931 million in 1995. Export sales, primarily to these regions, were \$1,939 million in 1997, \$1,530 million in 1996, and \$737 million in 1995.

Summarized financial information by geographic region for 1997, 1996, and 1995 is as follows (in thousands):

	1997	1996	1995

Net sales:			
United States	\$ 6,328,720	\$ 4,024,482	\$ 2,199,940
International	863,855	446,437	194,217
Eliminations	(752,404)	(374,912)	(161,505)

Total	\$ 6,440,171	\$ 4,096,007	\$ 2,232,652

Operating income:			
United States	\$ 1,581,622	\$ 1,379,994	\$ 692,174
International	48,750	22,704	4,199
Eliminations	(3,078)	(1,892)	1,590

Total	\$ 1,627,294	\$ 1,400,806	\$ 697,963

Identifiable assets:			
United States	\$ 5,041,225	\$ 3,467,637	
International	505,115	184,291	
Eliminations	(94,356)	(21,696)	

Total	\$ 5,451,984	\$ 3,630,232	
=====			

Report of Independent Accountants

Board of Directors and Shareholders
Cisco Systems, Inc.
San Jose, California

We have audited the accompanying consolidated balance sheets of Cisco Systems, Inc. and its subsidiaries as of July 26, 1997 and July 28, 1996 and the related consolidated statements of operations, cash flows, and shareholders' equity for each of the three years in the period ended July 26, 1997. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Cisco Systems, Inc. and its subsidiaries as of July 26, 1997 and July 28, 1996, and the consolidated results of their operations and their cash flows for each of the three years in the period ended July 26, 1997, in conformity with generally accepted accounting principles.

COOPERS & LYBRAND L.L.P.

San Jose, California
August 4, 1997

SUPPLEMENTARY FINANCIAL DATA

(unaudited) (in thousands, except per-share amounts)

	1997				1996			
	JULY 26, 1997	APR. 26, 1997	JAN. 25, 1997	OCT. 26, 1996	JULY 28, 1996	APR. 28, 1996	JAN. 28, 1996	OCT. 29, 1995
Net sales	\$1,765,097	\$1,647,871	\$1,592,377	\$1,434,826	\$1,292,150	\$1,087,056	\$ 918,510	\$ 798,291
Gross margin	1,149,057	1,076,532	1,039,858	933,346	839,499	709,902	606,195	530,549
Operating income	286,453	539,130	488,551	313,160	423,872	376,572	321,511	278,851
Income before provision for income taxes	335,701	600,511	562,914	389,746	442,715	393,244	337,157	291,709
Net income	\$ 150,957(1)	\$ 378,321(2)	\$ 338,459(3)	\$ 180,942(4)	\$ 276,551	\$ 245,649	\$ 209,737	\$ 181,387
Net income per common share	\$.22(1)	\$.55(2)	\$.49(3)	\$.26(4)	\$.41	\$.37	\$.31	\$.28

(1) Net income and net income per share include purchased research and development expenses of \$290.6 million and realized gains on the sale of a minority stock investment of \$18.0 million. Pro forma net income and net income per share, excluding these nonrecurring items net of tax, would have been \$383,237 and \$0.55, respectively.

(2) Net income and net income per share include realized gains on the sale of a minority stock investment of \$32.3 million. Pro forma net income and net income per share, excluding this nonrecurring item net of tax, would have been \$357,980 and \$0.52, respectively.

(3) Net income and net income per share include purchased research and development expenses of \$43.2 million and realized gains on the sale of a minority stock investment of \$47.3 million. Pro forma net income and net income per share, excluding these nonrecurring items net of tax, would have been \$351,863 and \$0.51, respectively.

(4) Net income and net income per share include purchased research and development expenses of \$174.6 million and realized gains on the sale of a minority stock investment of \$55.1 million. Pro forma net income and net income per share, excluding these nonrecurring items net of tax, would have been \$320,813 and \$0.47, respectively.

STOCK MARKET INFORMATION

The following table presents the ranges of the Company's common stock. Prices reflect the two-for-one split effective February 1996:

	1997		1996		1995	
	HIGH	LOW	HIGH	LOW	HIGH	LOW
First Quarter	\$ 67.00	\$ 50.00	\$ 38.62	\$ 26.12	\$ 15.00	\$ 10.43
Second Quarter	74.87	57.62	43.93	32.68	18.31	15.06
Third Quarter	69.75	46.37	52.37	40.56	20.37	16.28
Fourth Quarter	80.37	46.50	58.75	47.12	29.31	19.68

Cisco Systems' common stock (Nasdaq symbol CSCO) is traded on the Nasdaq National Market. The table above reflects the range of high and low closing prices for each period indicated. The Company has never paid cash dividends on the common stock and has no present plans to do so. There were approximately 12,880 shareholders of record on July 26, 1997.

DIRECTORS

CAROL BARTZ(3)

Chairman and Chief Executive Officer
Autodesk, Inc.

JOHN T. CHAMBERS(1)(4)(5)(6)

President and Chief Executive Officer
Cisco Systems, Inc.

JAMES F. GIBBONS, Ph.D.(2)(4)

Professor of Electrical Engineering
and Special Consul for Industrial Relations Stanford University

EDWARD R. KOZEL

Senior Vice President and Chief Technical Officer Cisco Systems, Inc.

RICHARD M. MOLEY

Senior Vice President
Cisco Systems, Inc.

JOHN P. MORGRIDGE(1)(5)(6)

Chairman
Cisco Systems, Inc.

ROBERT L. PUETTE(2)(3)(4)(5)

President, Chief Executive Officer,
and Chairman of the Board
NetFRAME Systems, Inc.

MASAYOSHI SON

President and Chief Executive Officer
SOFTBANK Corp.

DONALD T. VALENTINE(1)(5)(7)

General Partner
Sequoia Capital

STEVEN M. WEST(3)(7)

President and Chief Executive Officer
Hitachi Data Systems

OFFICERS

LARRY R. CARTER

Senior Vice President, Finance and Administration Chief Financial Officer and Secretary

JOHN T. CHAMBERS

President and Chief Executive Officer

GARY DAICHENDT

Senior Vice President, Worldwide Operations

EDWARD R. KOZEL

Senior Vice President and Chief Technical Officer

DONALD J. LISTWIN

Senior Vice President,
Service Provider Line of Business

MARIO MAZZOLA

Senior Vice President,
Enterprise Line of Business

CARL REDFIELD
Senior Vice President, Manufacturing

TRANSFER AGENT AND REGISTRAR

The First National Bank of Boston
Boston Equiserve
P.O. Box 8040
Boston, MA 02266-8040
www.equiserve.com
617 575-3120

INDEPENDENT ACCOUNTANTS

Coopers & Lybrand L.L.P.
San Jose, California

LEGAL COUNSEL

Brobeck, Phleger & Harrison LLP
Palo Alto, California

NOTICE OF ANNUAL MEETING

Cisco Systems Headquarters
255 West Tasman Drive
San Jose, California
November 13, 1997
10:00 a.m. Pacific Time

INVESTOR RELATIONS

For further information on the company, additional copies of this report, Form 10-K, or other financial information contact:

Investor Relations
Cisco Systems, Inc.
170 West Tasman Drive
San Jose, CA 95134-1706
408 227-CSCO (2726)

You may also contact us by sending an e-mail to investor-relations@cisco.com or by visiting the company's Web site at www.cisco.com.

ONLINE ANNUAL REPORT

We invite you to visit our online interactive annual report at www.cisco.com/annualreport/1997. In this version you will find our shareholders' letter in multiple languages, a financial section that lets you create customized charts and graphs, detailed customer profiles, and additional company and product information. This Web-based report complements our printed report, giving you a comprehensive understanding of Cisco Systems.

-
- (1) Member of the Executive Committee
 - (2) Member of the Compensation Committee
 - (3) Member of the Audit Committee
 - (4) Member of the Nomination Committee
 - (5) Member of the Acquisition Committee
 - (6) Special Stock Option Committee
 - (7) Special Technology Committee
-

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EXHIBIT 21.01

SUBSIDIARIES

Cisco Systems Canada Limited
Cisco Systems Europe, S.A.R.L. (France) Cisco Systems Import/Export Corporation (U.S. Virgin Islands) Cisco Systems Belgium, S.A.
Cisco Systems Limited (U.K.)
Cisco Systems Australia PTY. Limited
Nihon Cisco Systems, K.K. (Japan)
Cisco Systems de Mexico, S.A. de C.V.
Cisco Systems New Zealand Limited
Cisco Systems (HK) Limited (Hong Kong) Cisco Systems GmbH (Germany)
Cisco Systems (Italy) Srl
Cisco Systems GesmbH (Austria)
Cisco do Brasil Ltda. (Brazil)
Cisco Systems (Korea) Ltd.
VZ, Cisco Systems, C.A. (Venezuela)
Cisco Systems South Africa (Pty) Ltd.
Cisco Systems Sweden Aktiebolag
Cisco Systems (Switzerland) AG
Cisco Systems Netherlands, B.V.
Cisco Systems International Netherlands, B.V. Cisco Systems Czech Republic, s.r.o.
Cisco Systems Spain, S.L.
Cisco Systems Argentina S.A.
Cisco Systems Chile, S.A.
Cisco Sistemas de Redes S.A., (Costa Rica) Cisco Systems Malaysia, Sdn. Bhd.
Cisco Systems (USA) Pte. Ltd., Singapore Cisco Systems Thailand, Ltd.
Cisco Systems Peru, S.A.
Cisco Systems Greece, S.A.
Cisco Systems Poland, Sp.zo.o
Cisco Systems Isreal, Ltd.
Cisco Systems Internetworking Iletsim Hizmetleri Ltd.Sirketi

(Turkey)

Cisco Systems (India), Ltd. (DE,USA)
Cisco Systems Capital Corp. (USA)
Cisco Systems (Taiwan),Ltd.
Cisco Systems (Colombia), Ltda
Cisco Technology, Inc.
Cisco Systems Sales & Service, Inc.
Skystone Systems Company (Canada)
Telebit, Corporation (CA,USA)

EXHIBIT 23.02

CONSENT OF INDEPENDENT ACCOUNTANTS

We consent to the incorporation by reference in the registration statements of Cisco Systems, Inc. on Form S-3 (File Numbers: 333-17839, 333-20127, 333-24559, 333-33093, 333-33663, 333-36197) and on Form S-8 (File Numbers: 33-34849, 33-40509, 33-44221, 33-70644, 33-71860, 33-83268, 33-87100, 33-87096, 33-63331, 33-64283, 33-64283[Post Eff.], 33-01069, 333-02101, 333-05447, 333-09903, 333-14383, 333-14679, 333-14661, 333-16577, 333-17287, 333-24741, 333-33619, 333-33613, 333-35805) of our reports dated August 4, 1997, on our audits of the consolidated financial statements and financial statement schedule of Cisco Systems, Inc. as of July 26, 1997 and July 28, 1996, and for the years ended July 26, 1997, July 28, 1996, and July 30, 1995, which reports are incorporated by reference in this Annual Report on Form 10-K.

/s/ Coopers & Lybrand L.L.P.

*San Jose, California
October 17, 1997*

ARTICLE 5

This schedule contains summary financial information extracted from the consolidated balance sheet, consolidated statement of income and consolidated statement of cash flows included in the Company's Form 10-K for the period ending July 26, 1997, and is qualified in its entirety by reference to such financial statements.

PERIOD TYPE	12 MOS
FISCAL YEAR END	JUL 26 1997
PERIOD START	JUL 29 1996
PERIOD END	JUL 26 1997
CASH	269,608
SECURITIES	2,636,367
RECEIVABLES	1,192,741
ALLOWANCES	22,340
INVENTORY	254,677
CURRENT ASSETS	3,101,266
PP&E	882,185
DEPRECIATION	415,833
TOTAL ASSETS	5,451,984
CURRENT LIABILITIES	1,120,109
BONDS	0
PREFERRED MANDATORY	0
PREFERRED	0
COMMON	1,763,200
OTHER SE	2,526,422
TOTAL LIABILITY AND EQUITY	5,451,984
SALES	6,440,171
TOTAL REVENUES	6,440,171
CGS	2,241,378
TOTAL COSTS	4,812,877
OTHER EXPENSES	0
LOSS PROVISION	0
INTEREST EXPENSE	0
INCOME PRETAX	1,888,872
INCOME TAX	840,193
INCOME CONTINUING	1,048,679
DISCONTINUED	0
EXTRAORDINARY	0
CHANGES	0
NET INCOME	1,048,679
EPS PRIMARY	1.52
EPS DILUTED	0

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