

**FIRST AMENDMENT TO LEASE
BY AND BETWEEN INVESTMENT GRADE LOANS (LANDLORD)
AND THE COUNTY OF SANTA CLARA (TENANT)
105 N BASCOM, SUITE 101, SAN JOSE, CALIFORNIA**

THIS FIRST AMENDMENT TO LEASE AGREEMENT ("Amendment"), dated as of this _____ day of _____, 2004, ("**Effective Date**"), is entered into by and between **INVESTMENT GRADE LOANS, INC.**, ("**Landlord**") and the **COUNTY OF SANTA CLARA**, a political subdivision of the State of California ("**Tenant**"), with respect to that certain Lease Agreement accepted by the Santa Clara Board of Supervisors December 14, 1999, ("**Lease**") regarding leased premises located at 105 N Bascom Avenue, Suite 101, San Jose, California. Capitalized terms used in this Amendment without definition shall have the meanings ascribed to such terms in the Lease.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, the parties agree that the Lease Agreement is hereby amended as follows:

1. **Term (Paragraph 3)**. Paragraph 3 is deleted in its entirety and replaced with the following:

(a) Amendment shall have a term of five months and shall commence on February 17, 2005 and end on July 16, 2005.

(b) Any holding over after the expiration of this extended term shall be deemed a tenancy from month-to-month, and shall be on the same terms, covenants, and conditions.

2. **Rental (Paragraph 4)**. Paragraph 4 is deleted in its entirety and replaced with the following:

Beginning on February 17, 2005, and continuing through July 16, 2005, the monthly rent to be paid to Landlord shall be Six Thousand Eight Hundred Fifty-Three (\$6,853.00) dollars.

Where increased rent commences or terminates on a day other than the first day in a calendar month, the rent shall be prorated, based on the actual number of days that the Premises are occupied by Tenant in that month. Tenant shall not pay Landlord any additional rent of any kind.

3. Notices (Paragraph 23). Paragraph 23 is deleted in its entirety and replaced with the following:

Any notices which are required to be given hereunder, or which either party may wish to give to the other, shall be in writing and may be personally delivered or given by mailing same by registered or certified mail, postage prepaid, address as follows.

To Landlord: Investment Grade Loans, Inc.
c/o Andrew Lewis
289 S. San Antonio Road, #202
Los Altos, CA 94022

To Tenant: County Center at Charcot
FAF Property Management Division
2310 North First Street, 2nd Floor, Ste 200
San Jose, CA 95131-1011

4. Integrated Pest Management. Landlord shall provide Tenant with seventy-two hours notice of any and all pesticide applications to be performed on the Premises. Included in this notice shall be a copy of the Material Safety Data Sheet (MSDS). Such application shall be performed by Landlord in accordance with all local, state and federal regulations, and shall not be performed between the hours of 7:00 a.m. through 6:00 p.m., Monday through Friday.

An Integrated Pest Management (IPM) Ordinance (Division B28) was adopted by the Board of Supervisors for the County of Santa Clara and became effective on June 20, 2002. IPM is a decision-making process for managing pests where the least hazardous pesticides are used only as a last resort for controlling pests. If pesticides must be used, it is requested that the Landlord contact the County for a list of pesticides approved.

5. Subordination, Non-Disturbance And Attornment. See Exhibit D attached to this Amendment to Lease and incorporated here in by this reference.

6. Full Force and Effect. Except as amended hereby, all of the other terms, covenants and conditions of the Lease remain in full force and effect.

7. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same document.

8. Authority. Each of the undersigned warrants and represent that they have the authorization to sign this Amendment on behalf of their respective parties.

9. **Entire Agreement.** This Amendment contains the entire agreement between the parties pertaining to the subject matter and fully supersedes all prior written or oral agreements and understandings between the parties pertaining to such subject matter.

IN WITNESS WHEREOF, the undersigned have executed this Amendment to be effective as of the day and year first hereinabove set forth.


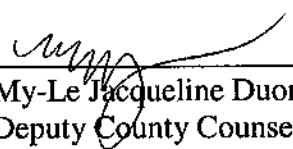
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|---|--|
| TENANT: COUNTY OF SANTA CLARA | LANDLORD: INVESTMENT GRADE LOANS, INC. |
| By: _____ Pete McHugh, Chair Board of Supervisors | By: _____  |
| Date: _____ | Name: _____ Title: _____ |
| ATTEST: Phyllis A. Perez, Clerk Board of Supervisors | Date: _____ <i>11/16/04</i> |
| _____ | |
| Date: _____ | |
| APPROVED AS TO FORM AND LEGALITY: | |
|  <i>11-10-04</i> | |
| My-Le Jacqueline Duong Deputy County Counsel | |
| Date: _____ | |

EXHIBIT D

**SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (the "SNDA") is entered into as of _____, 2004, by and among the County of Santa Clara, a political subdivision of the State of California ("Tenant"), Investment Grade Loans, Incorporated in the State of California, ("Borrower/Landlord") and _____, a bank organized under the laws of the State of _____ ("Lender").

RECITALS

A. Borrower/Landlord owns certain real property located at 105 N Bascom Avenue, San Jose, California (the "Property"), which Property is more particularly described in **Exhibit "A"** attached hereto and made a part hereof;

B. Tenant is the proposed lessee and Borrower/Landlord is the proposed landlord of a lease of premises (the "Premises") located at the Property, a copy of which lease (the "Lease") is attached hereto as **Exhibit "B"** and made a part hereof;

C. Borrower/Landlord has signed the Lease and it is being considered by the Tenant's Board of Supervisors at an open session on _____, 2004;

D. Provided the Tenant's Board of Supervisors approves of the Lease, it will become a binding agreement between the parties and pursuant to the terms of such Lease, Borrower/Landlord is to provide an SNDA for each and all loans secured by the Property; and

E. Lender has made, or will make, to Borrower/Landlord, a loan (the "Loan") to be secured by a Deed of Trust with Assignment of Leases and Rents (the "Deed of Trust") which will be a lien against the Property wherein the Premises covered by the Lease are located, which Loan is also evidenced by a Secured Promissory Note in the original principal amount of \$_____.00.

WITNESSETH

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the sufficiency of which are hereby acknowledged, Tenant, Borrower/Landlord and Lender hereby agree and covenant as follows:

1. Borrower/Landlord hereby acknowledges, confirms and agrees that the Lease, if approved, will be assigned to Lender pursuant to the Deed of Trust, and Lender acknowledges

that the Deed of Trust contains a license back to Borrower/Landlord permitting Borrower/Landlord to collect all rents, income and other sums payable under the Lease so long as Borrower/Landlord is not in default.

2. Tenant and Lender hereby agree that the Lease, if approved, shall at all times be subject and subordinate in all respects to the Deed of Trust and to all renewals, modifications and extensions thereof, subject to the terms and conditions hereinafter set forth in this SNDA. Notwithstanding the foregoing, the proceeds of any insurance relating to a casualty to the Premises (as defined in the Lease) and held or controlled by Lender shall be applied to rebuild as provided in the Lease.

3. This subordination shall not operate to affect adversely any right to the Tenant under this Lease. In addition, notwithstanding such subordination, Tenant's right to quiet possession of the Premises shall not be disturbed.

4. If the interests of Borrower/Landlord in the real estate are acquired by Lender by foreclosure, deed in lieu of foreclosure or any other method:

(a) Lender agrees that the Lease and the rights of Tenant thereunder shall continue in full force and effect and shall not be terminated or disturbed except in accordance with the terms of the Lease, and Tenant's right to quiet possession of the Premises shall not be disturbed;

(b) Tenant agrees to attorn to Lender as its landlord and Lender will be deemed to have assumed all obligations of the Landlord under the Lease, so as to establish direct privity of estate and contract between Tenant and Lender, with the same force, effect and relative priority in time and right as if the Lease had initially been entered into between the Lender and Tenant; provided, further, that the Tenant and the Lender, with reasonable promptness following such sale or deed delivery in lieu of foreclosure, shall execute such revisions to the Lease as shall be necessary to document the foregoing relationship;

(c) The interests so acquired shall not merge with any other interests of Lender in the real estate if such merger would result in the termination of the Lease;

(d) If, notwithstanding any other provisions of this SNDA, the acquisition by Lender of the interests of Borrower/Landlord in the real estate results, in whole or part, in the termination of the Lease, there shall be deemed to have been created a lease between Lender and Tenant on the same terms and conditions as the Lease for the remainder of the term of the Lease, with renewal options, if any.

The provisions of this paragraph shall be effective and self-operative immediately upon Lender succeeding to the interests of Borrower/Landlord without the execution of any other instrument.

5. This SNDA may not be modified orally or in any other manner except by agreement in writing signed by the parties hereto or their respective successors in interest. This SNDA shall inure to the benefit of and be binding upon the parties hereto, their respective heirs, successors and assigns. Upon recorded satisfaction of the Loan, this SNDA shall become null and void and be of no further effect.

6. This SNDA may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same SNDA.

IN WITNESS WHEREOF, the parties hereto have executed this SNDA as of the day and year first above written.

BORROWER/LANDLORD:
Investment Grade Loans, Incorporated in the State of California

By: _____
Name:
Title:

LENDER: _____

By: _____
Name:
Title:

TENANT: COUNTY OF SANTA CLARA

By: _____
Name:
Title:

APPROVED AS TO FORM AND LEGALITY

By: _____
Name: _____
Title: Deputy County Counsel