*TO BE RECORDED AND*
*WHEN RECORDED RETURN TO:*

Jones Hall,
A Professional Law Corporation
650 California Street, 18th Floor
San Francisco, CA 94108
Attn: William H. Madison, Esq.

# SECOND AMENDMENT TO FACILITY LEASE

THIS SECOND AMENDMENT TO FACILITY LEASE (this "Second Amendment"), dated for convenience as of July 1, 2005, is by and between the REDEVELOPMENT AGENCY OF THE CITY OF SUNNYVALE, a public entity and agency duly organized and existing under and by virtue of the laws of the State of California (the "Agency"), and the CITY OF SUNNYVALE, a municipal corporation duly organized and existing under the laws of the State of California (the "City");

*WITNESSETH:*

WHEREAS, the City and the Agency have previously entered into a Facility Lease dated as of March 1, 1998, which was recorded as Instrument No. 14120789 in Official Records of the Office of the Santa Clara County Recorder on April 1, 1998 (the "Facility Lease"); and

WHEREAS, the City and the Agency have previously entered into a First Amendment to Facility Lease dated as of April 1, 2000, which was recorded as Instrument No. 15261168 in Official Records of the Office of the Santa Clara County Recorder on May 25, 2000 (the "First Amendment to Facility Lease"); and

WHEREAS, pursuant to Section 2.06 of the Facility Lease, the City wishes to exercise its option at this time to remove a portion of the land which was previously leased by the Agency to the City pursuant to the Facility Lease, as amended by the First Amendment to Facility Lease (the "Former Property"); and

WHEREAS, such amendment is permitted to be made pursuant to Section 11.05(3) of the Facility Lease and Section 9.01(b) of the Trust Agreement dated as of March 1, 1998 (the "Trust Agreement"), by and among U.S. Bank Trust National Association, as successor trustee (the "Trustee"), the Agency and the City;

NOW, THEREFORE, for and in consideration of the premises and the material covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows:

SECTION 1. *Amendment of Facility Lease.* Pursuant to Section 2.06 of the Facility Lease, the Facility Lease, as amended by the First Amendment to Facility Lease, is hereby further amended by deleting in its entirety Exhibit A attached thereto and inserting in its place a new Exhibit A reading in its entirety as attached hereto. All other provisions of the Facility Lease shall remain in full force and effect.

SECTION 2. *Amendment Permitted.* The amendment made pursuant to this Second Amendment to Facility Lease is authorized to be made pursuant to and in accordance with the provisions of Section 11.05(3) of the Facility Lease and Section 9.01(b) of the Trust Agreement.

SECTION 3. *Effect of Amendment.* Upon the execution, delivery and recordation of this Second Amendment to Facility Lease, the term of the Facility Lease shall cease with respect to the Former Property and shall commence with respect to the Substituted Property.

SECTION 4. *Governing Law.* This Second Amendment shall be construed in accordance with and governed by the Constitution and laws of the State of California.

SECTION 5. *Binding Effect.* This Second Amendment shall inure to the benefit of and shall be binding upon the City and the Agency, and their respective successors and assigns. This Second Amendment shall become effective upon execution and delivery by each of the City and the Agency, and the recordation hereof in the Office of the Santa Clara County Recorder.

SECTION 6. *Severability of Invalid Provisions.* If any one or more of the provisions contained in this Second Amendment shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Second Amendment and such invalidity, illegality or unenforceability shall not affect any other provision of this Second Amendment, and this Second Amendment shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The City and the Agency each hereby declares that it would have entered into this Second Amendment and each and every other Section, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Second Amendment may be held illegal, invalid or unenforceable.

SECTION 7. *Execution of Counterparts.* This Second Amendment may be executed in any number of counterparts, each of which shall for all purposes be deemed to be an original and all of which shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the Agency and the City have caused this Second Amendment to be executed in their respective names by their duly authorized officers, all as of the date first above written.

REDEVELOPMENT AGENCY OF THE
CITY OF SUNNYVALE, as lessor

By _____
Executive Director

(S E A L)

Attest:

_____
Secretary

APPROVED AS TO FORM BY:

By: _____
David Kahn, Esq.
Counsel to the Agency

CITY OF SUNNYVALE, as lessee

By _____
Director of Finance

(S E A L)

Attest:

_____
City Clerk

APPROVED AS TO FORM:

By: _____
David Kahn, Esq.
City Attorney

The undersigned hereby acknowledges receipt of this Second Amendment and of the items described in Section 2.06(b) of the Facility Lease.

U.S. BANK NATIONAL ASSOCIATION,
as trustee

By _____
Authorized Officer

State of California )
) ss
County of Santa Clara )

On _____, before me, _____, Notary Public for the State of California, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature:_____

State of California )
) ss
County of Santa Clara )

On _____, before me, _____, Notary Public for the State of California, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature:_____

State of California )
) ss
County of _____ )

On _____, before me, _____, Notary Public for the State of California, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature:_____

## EXHIBIT A

## DESCRIPTION OF THE LEASED PROPERTY

APN 209-35-010, comprising 2.06 acres, and APN 209-35-011, comprising 2.16 acres.