

The State Bar of California

# REQUEST FOR PROPOSAL



This document is a Request for Proposal (“RFP”) for Request for Commercial Leasing Services.

Please submit 4 copies of your proposal no later than 5 p.m. on May 23, 2006 to:

The State Bar of California  
180 Howard Street  
San Francisco, CA 94105-1639

Attn: Sharon E. Pearl  
Real Property Operations  
415-538-2340  
[sheri.pearl@calbar.ca.gov](mailto:sheri.pearl@calbar.ca.gov)

## I. INTRODUCTION

The State Bar of California (“the State Bar”), created in 1927 by the Legislature and adopted into the California Constitution in 1960, is a public corporation within the judicial branch of state government. In accordance with statute and the State Bar's procurement policies, contracts of \$50,000 or more are subject to formal competitive bidding. As a governmental agency, the State Bar regularly is granted favorable governmental pricing and contract terms.

The State Bar is seeking proposals for Services of a Commercial Leasing Broker to facilitate the long term lease of floors 11 and 12 at 180 Howard Street and one vacant retail storefront (#G4) on the ground floor. The State Bar will host a pre-bidders conference on May 9, 2006, from 2:30 to 4:00 pm in the State Bar Boardroom at 180 Howard Street, San Francisco CA 94105. Attendance is mandatory for all vendors intending to submit a proposal. Vendors should RSVP for the pre-bidders conference by emailing Sharon Pearl at [sheri.pearl@calbar.ca.gov](mailto:sheri.pearl@calbar.ca.gov). Interviews will be individually scheduled during the week of May 29, 2006.

Contact with State Bar personnel in connection with this RFP may not be made other than as specified in this RFP. Unauthorized contact of any State Bar personnel may be cause for rejection of a bid.

## II. GENERAL INFORMATION

The submission requirements for this RFP are set forth below. A proposal shall constitute an irrevocable offer for 60 business days following the deadline for its submission. Reference to a certain number of days in this RFP shall mean business days unless otherwise specified.

### A. Submission Requirements

To be considered responsive, a proposal must contain the following, referenced by number and in the order below:

1. A brief description of the history and organization of the bidder's firm, and of any proposed subcontractor.
2. Copies of business licenses, professional certifications or other credentials, together with evidence that bidder, if a corporation, is in good standing and qualified to conduct business in California.
3. The most recent year's annual reports, or comparable document, including detailed current profit and loss, assets and liabilities, and other relevant financial data.
4. A description of similar projects completed by the bidder within the past three (3) years.
5. Qualifications, background and experience of the project director and other staff proposed to work on the project.
6. References with contact information from organizations that have used bidder's services for similar projects/installations within the last 12-18 months.
7. A general description of the techniques, approaches and methods to be used in completing the project.
8. A detailed cost proposal, including any travel costs and other expenses. Commission schedule should be outlined on **Attachment A: Proposed Compensation Schedule**, and submitted in this format for both office and retail space. As the State Bar may award a contract based on the initial offer, a bidder should make its initial offer on the most favorable terms available. The State Bar reserves the right, however, to have discussions with those bidders falling within a competitive range, and to request revised pricing offers from them and to make an award or conduct negotiations thereafter.
9. A detailed marketing proposal for leasing floors 11 and 12 at 180 Howard Street including samples of materials used for similar facilities. Detail financial plans for establishment of lease rates for the floors in question (view space) and recommendations for tenant improvement allowances and processes (i.e. turn key

etc.). A detailed marketing proposal for leasing the one remaining retail store on the ground floor.

Proposals which fail to address each of the submission requirements above may be deemed non-responsive and will not be further considered.

## **B. Rejection of Proposals**

**The State Bar reserves the right in its sole discretion to reject any or all proposals in whole or in part, without incurring any cost or liability whatsoever.** All proposals will be reviewed for completeness of the submission requirements. If a proposal fails to meet a material requirement of the RFP, or if it is incomplete or contains irregularities, the proposal may be rejected. A deviation is material to the extent that a proposal is not in substantial accord with RFP requirements.

Immaterial deviations may cause a bid to be rejected. The State Bar may or may not waive an immaterial deviation or defect in a proposal. The State Bar's waiver of an immaterial deviation or defect shall in no way modify the RFP or excuse a bidder from full compliance with the RFP requirements.

Any proposal may be rejected where it is determined to be not really competitive, or where the cost is not reasonable.

Proposals that contain false or misleading statements may be rejected if in the State Bar's opinion the information was intended to mislead the State Bar regarding a requirement of the RFP.

## **C. Evaluation Process and Highest Scored Bidder**

An evaluation team will review in detail all proposals that are received to determine the Highest Scored Bidder ("HSB").

The State Bar reserves the right to determine the suitability of proposals on the basis of a proposal's meeting administrative requirements, technical requirements, the review team's assessment of the quality and performance of the equipment and services proposed, and cost.

During the evaluation process, the State Bar may require a bidder's representative to answer questions with regard to the proposal and/or require certain bidders to make a formal presentation to the evaluation team and/or the State Bar Senior Executive Team. The State Bar may also have discussions with those bidders falling within a competitive range, and request revised pricing offers from such bidders and make an award and/or conduct negotiations thereafter.

**The following criteria will be used in reviewing and comparing the proposals and in determining the HSB. The weight to be assigned to each criterion appears following each item.**

1. Responsiveness of the proposal to the submission requirements set forth in the RFP (5%).
2. Agreement with the State Bar's contracting requirements as delineated in the Leasing Services Agreement, included in this RFP as Attachment B (15%).
3. The technical ability, capacity, and flexibility of the bidder to perform the contract in a timely manner and on budget, as verified by, e.g., the quality of any demonstration, client references, demonstrated success in projects with similar requirements and any other contracts with the State Bar. The State Bar of California will require a panel interview with the evaluation team as part of this evaluation (40%).
4. The financial viability of the bidder as evidenced by standard financial reports (10%).
5. The total cost of the proposal solution. Costs will be evaluated only if a proposal is determined to be otherwise qualified (30%).

If a large number of proposals are received, the State Bar reserves the right to review the proposals using a tiered evaluation system. All proposals will be evaluated based on the Submission Requirements and Cost, with the top candidates advancing as a finalist and receiving a full evaluation as outlined above.

#### **D. Award and Execution of Contract**

Subject to the State Bar's right to reject any or all proposals, the HSB will be awarded the contract. Notice will be posted at the State Bar's offices at 180 Howard Street, San Francisco, CA and written notice sent to bidders on or about June 2, 2006 of the Bar's intention to award the contract to the HSB. It is anticipated that final selection of the HSB will be made by June 9, 2006. The evaluation team will select a winning proposal subject to approvals granted by the Board of Governors. Upon selection, the State Bar and selected Vendor will enter into good faith negotiations to finalize a contract containing, without limitation, the contents the State Bar's Leasing Services Agreement attached as **Attachment B** of the Request for Proposal.

No contract or agreement, express or implied, shall exist or be binding on the State Bar before the execution of a written Leasing Services Agreement by both parties. If agreement on the terms of such a Leasing Services Agreement cannot be reached after a period deemed reasonable by the State Bar in its sole discretion, the State Bar may enter into negotiations and sign a contract with any other bidder who submitted timely,

responsive and responsible proposals to this RFP.

If, after the State Bar and the HSB agree to terms and execute a Leasing Services Agreement, that Leasing Services Agreement is terminated for any reason, the State Bar may, in its sole discretion, either enter into negotiations with the next highest scored bidder, or issue a new RFP and begin the proposal process anew.

Questions regarding the State Bar's award of any business on the basis of proposals submitted in response to the RFP, or on any other matter in connection with the selection process, should be addressed in writing to Sharon E. Pearl at [sheri.pearl@calbar.ca.gov](mailto:sheri.pearl@calbar.ca.gov).

Where written notice is required in this RFP, the notice must be sent by U.S. mail **and** either facsimile or e-mail.

#### **E. Errors in the RFP**

If a bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, the bidder should immediately provide the State Bar with written notice of the problem and request that the RFP be clarified or modified. Without disclosing the source of the request, the State Bar may modify the document prior to the date fixed for submission of proposals by issuing an addendum to all potential bidders to whom the RFP was sent.

If prior to the date fixed for submissions, a bidder knows of or should have known of an error in the RFP but fails to notify the State Bar of the error, the bidder shall bid at its own risk, and if, awarded the contract, shall not be entitled to additional compensation or time by reason of the error or its later correction.

#### **F. Questions Regarding the RFP**

Questions regarding the RFP may be addressed in writing to Sharon E. Pearl at [sheri.pearl@calbar.ca.gov](mailto:sheri.pearl@calbar.ca.gov). All questions must be submitted no later than 5 days prior to the date for submission of proposals. Questions and answers regarding the RFP may be shared with all bidders known to be interested in submitting a proposal.

If a question relates to a proprietary aspect of its proposal and the question would expose proprietary information if disclosed to competitors, the bidder may submit the question in writing, conspicuously marking it as "CONFIDENTIAL." With the question, the bidder must submit a statement explaining why the question is sensitive. If the State Bar concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence. If the State Bar does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the bidder will be notified.

A bidder who believes that one or more of the RFP's requirements is onerous or unfair, or unnecessarily precludes less costly or alternative solutions, may submit a written request that the RFP be changed. The request must set forth the recommended change and reason for proposing the change. The State Bar must receive any such request no later than 5 days before the deadline for submitting proposals.

**G. Addenda**

The State Bar may modify the RFP prior to the date fixed for submission by posting, mailing, emailing or faxing an addendum to the bidders known to be interested in submitting a proposal. If any bidder determines that an addendum unnecessarily restricts its ability to bid, it must notify the State Bar in writing no later than 5 days before the deadline for submitting proposals.

**H. Withdrawal and Resubmission/Modification of Proposals**

A proposal may be withdrawn at any time prior to the deadline for submitting proposals by notifying the State Bar in writing of its withdrawal. The notice must be signed by the bidder. The bidder may thereafter submit a new or modified proposal, provided that it is received at the State Bar no later than the deadline.

Modification offered in any other manner, oral or written, will not be considered. Proposals cannot be changed after the evaluation process begins.

**I. Protest Procedure**

A bidder may protest the award if it meets all the following conditions:

1. The bidder has submitted a proposal that it believes is or should have been the HSB, under the criteria set forth above;
2. The bidder believes that its proposal meets the State Bar's administrative and technical requirements, proposes services of proven quality and performance, and offers a competitive cost to the State Bar; and
3. The bidder believes that the State Bar has incorrectly selected another bidder.

A bidder qualified to protest should contact Andrew Conover, Procurement Supervisor, (415) 538-2207, to attempt an informal resolution. If this contact is unable to resolve the protest to the bidder's satisfaction, the bidder must file a written protest within 5 days of the notice of intention to award the contract. The written protest must state the facts surrounding the issue and the reasons the bidder believes the award to be invalid. The protest must be sent by certified or registered mail or delivered personally to:

The State Bar of California  
180 Howard Street  
San Francisco, CA 94105-1639

Attention: Peggy Van Horn, Chief Financial Officer

Protests will be reviewed and decided by the State Bar's Award Protest Team within 30 days after the State Bar issues written acknowledgment of the protest. In the event that a protest is filed, the contract award will be postponed pending resolution of the protest.

**J. News Releases**

News releases pertaining to the award of a contract may not be made without the prior written approval of the State Bar.

**K. Disposition of Materials**

All materials submitted in response to an RFP will become the property of the State Bar of California and will be returned only at the State Bar's option and at the expense of the bidder. One copy of each proposal will be retained for official files and become a public record. Specific limited pages of a proposal, not including proposed cost and compensation, may be marked as proprietary and confidential. The bidder's consent will be requested before release of such pages to non-State Bar personnel. By submitting a proposal, a bidder agrees to these terms and waives any right to pursue a cause of action for damages incurred as a result of the release of any information contained in a proposal.

**III. STATEMENT OF WORK**

The State Bar of California owns a thirteen-story building located at 180 Howard Street, at the corner of Main and Howard Streets, in the City of San Francisco's Southern Financial District. The floors are numbers G through 12. The State Bar plans to lease floors 11 and 12 (approximately 32,766 SF of view space) to outside office tenants and to engage the services of a Commercial Real Estate Firm to market the space and to solicit new tenants. In addition, there is one smaller retail space comprised on the ground floor that the broker will be responsible for leasing (approximately 600 SF). The Real Estate Firm will be expected to provide standard listing services, as more particularly described in the Leasing Services Agreement (Attachment B), including, but not limited to, identifying prospective tenants, developing marketing strategies, showing space to prospective tenants, preparing financial analysis including net present value calculations to compare tenant proposals, and recommending lease terms and conditions. The successful bidder will be expected to work closely with The State Bar of California to negotiate leases favorable to the Bar and assist with the composition of final lease documents. The State Bar of California's

Office of General Counsel will draft the lease documents with input from the Bar's Department of Real Property Operations and the selected real estate firm.

The State Bar of California expects to enter into leases for the full floors of no less than 7-year terms. In addition, full-floor or multi-floor tenants are preferred due to the shell condition of vacant floors 11, and 12 and the need for extensive build out. The listing agreement will be for a one-year term with a one-year option to extend.

#### **IV. CONTRACTING REQUIREMENTS**

Upon selection of a vendor, the terms set forth in this RFP are to be embodied in a definitive Leasing Services Agreement containing such additional covenants and other provisions as may be mutually acceptable. The State Bar's Leasing Services Agreement is attached as Attachment B and represents the State Bar's contracting requirements. Submission of a proposal shall constitute agreement to contract on these terms, except for any term specifically reserved and itemized in the proposal for future negotiation.

## **ATTACHMENT A**

### **PROPOSED COMPENSATION SCHEDULE**

*A review of the attached Leasing Services Agreement including Exhibit C of the agreement should be reviewed carefully before completing the compensation schedule.*

#### **OFFICE SPACE – FLOORS 11 and 12**

##### **1) Inside and Outside Broker Commission**

Broker proposes the following commission schedule (inclusive of all Outside and Inside Brokers) for space in the Building leased (on modified gross basis only) during the term of the agreement:

- a. \$\_\_\_\_\_ per rentable square foot for lease years one (1) through five (5) inclusive
- b. \$\_\_\_\_\_ per rentable square foot for lease years six (6) through ten (10) inclusive.

Absolutely no commission shall be payable for any lease year following the tenth (10th) year whether by renewal, extension, option, addition or otherwise.

##### **2) Inside Broker Only**

In the event that no Outside Broker is involved in the placement of a tenant for a particular lease, compensation schedule will be:

- a. \$\_\_\_\_\_ per rentable square foot for lease years one (1) through five (5) inclusive
- b. \$\_\_\_\_\_ per rentable square foot for lease years six (6) through ten (10) inclusive.

Absolutely no commission shall be payable for any lease year following the tenth(10th) year whether by renewal, extension, option, addition or otherwise.

#### **RETAIL SPACE – GROUND FLOOR**

##### **1) Inside and Outside Broker Commission**

Broker proposes the following commission schedule (inclusive of all Outside and Inside Brokers) for space in the Building leased (on modified gross basis only) during the term of the agreement:

- a. \_\_\_\_\_% of Base Rent (excluding annual CPI increases) for years one (1) through three (3) inclusive.
- b. \_\_\_\_\_% of Base Rent Rent (excluding annual CPI increases) for years four (4) through five (5) inclusive.
- c. \_\_\_\_\_% of Base Rent Rent (excluding annual CPI increases) for years six (6) through ten (10) inclusive.

Absolutely no commission shall be payable for any lease year following the tenth(10th) year whether by renewal, extension, option, addition or otherwise.

**3) Inside Broker Only**

In the event that no Outside Broker is involved in the placement of a tenant for a particular lease, compensation schedule will be:

- a. \_\_\_\_\_% of Base Rent (excluding annual CPI increases) for years one (1) through three (3) inclusive.
- b. \_\_\_\_\_% of Base Rent Rent (excluding annual CPI increases) for years four (4) through five (5) inclusive.
- c. \_\_\_\_\_% of Base Rent (excluding annual CPI increases) for years six (6) through ten (10) inclusive.

Absolutely no commission shall be payable for any lease year following the tenth(10th) year whether by renewal, extension, option, addition or otherwise.

ATTACHMENT B

LEASING SERVICES AGREEMENT

THIS LEASING AGREEMENT (this "Agreement") is entered into as of the day \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_, a \_\_\_\_\_ ("Broker"), and The State Bar of California, a public corporation("State Bar"), with reference to the following facts and intentions of the parties:

A. The State Bar is the owner of the building known as the State Bar Building, located at 180 Howard Street, San Francisco, situated on the real property described in Exhibit A attached hereto and incorporated herein (the "Building").

B. Broker is a real estate brokerage company duly licensed in the State of California and experienced in planning and executing a leasing program appropriate for the Building.

C. State Bar desires to contract with Broker to lease Suite G4 and suites located on floors eleven (11) and twelve (12) of the Building (each suite individually and collectively, the "Premises") and Broker desires to render such leasing services to State Bar, upon and subject to the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth below, State Bar and Broker agree as follows:

1. LEASING REPRESENTATIVE. State Bar hereby appoints Broker, and Broker hereby accepts such appointment, as the leasing representative for, and State Bar grants Broker the right to market and lease the Premises in a manner consistent with the terms of this Agreement and State Bar's directions. State Bar shall not, during the term of this Agreement, contract with any other broker, or grant any other broker the right, to market or lease the Premises. Nothing contained herein shall prohibit or preclude the State Bar from showing, offering, leasing or selling the Premises.

2. EXPERIENCE OF BROKER. Broker represents and warrants that it is experienced and capable in the leasing of space in properties similar in quality, size and type to the Building and is a licensed real estate broker under the laws of the State of California. Broker represents and warrants that (i) Broker is a licensed real estate broker, duly organized, validly existing, in good standing under the laws of the State of California, qualified to do business in the State of California, and with all requisite power and authority to enter



individuals becoming incapable of performing his or her obligations under this Agreement as a result of death, disability, termination of employment or for any other reason. Any such replacements shall be subject to State Bar's prior written approval, which approval may be granted or denied in State Bar's sole discretion. Broker may not otherwise replace any or all of the members of the Leasing Team and/or the Supervisor without State Bar's prior written consent, which consent may be granted or denied in State Bar's sole discretion.

3.3 Services. Broker and the Leasing Team shall, at their sole cost, use their best efforts, to secure an acceptable tenant(s) for the Premises on such terms as are within guidelines approved by State Bar from time to time, which efforts shall include, but shall not be limited to, the following:

(a) At State Bar's request, develop and prepare for State Bar's review and approval, and, once approved, implement a comprehensive marketing plan (the "Plan") and recommend, on a timely basis, such changes as Broker may advise to said Plan from time to time.

(b) Prepare and mail or distribute at its sole cost and expense and at regular intervals as determined by State Bar, marketing brochures, fliers, mailings, and other materials to facilitate the rapid lease-up of the Premises. Broker further agrees to sponsor open houses and other activities at a joint cost with the State Bar, which cost (and the apportionment thereof between Broker and State Bar) shall be agreed upon in advance between State Bar and Broker, in an effort to generate leasing activity and promote broker cooperation, if necessary.

(c) Identify and solicit prospective tenants and, in connection therewith, develop a plan for identifying such prospective tenants and a schedule for solicitation of such identified prospects, and to report weekly to State Bar, or State Bar's designated representative, such information as the State Bar may reasonably request, including the results of scheduled solicitations.

(d) Report within ten (10) days after the end of each calendar month, or upon State Bar's reasonable specific request, such information as may be necessary to determine the market factors affecting the leasing of the Premises, which information may include, to the best of Broker's knowledge, the amount and type of space available or coming available at competitive buildings, the rental rates proposed at competitive buildings, the names and requirements of prospective tenants (or their agents) for the Premises, and such other information as the State Bar may reasonably deem advisable.

(e) Solicit and encourage the cooperation of other real estate brokers and/or brokerage firms in the leasing of the Premises.

(f) Make such recommendations as State Bar may require or Broker may deem advisable for the Premises regarding such matters as rental rates, terms and conditions, and broker recognition procedures.

(g) With State Bar's approval and under State Bar's direction, to propose and participate in negotiations of lease terms and conditions with prospective tenants and/or their agents. Nothing contained herein shall be interpreted to mean that Broker or its officers, agents or employees shall provide legal advice or services to or serve as a legal representative of State Bar; have any authority to bind State Bar or owner to such proposals or negotiations or enter into any lease, agreement to lease, contract or other agreement of any kind on behalf of State Bar; or have any authority to make any representations or warranties on behalf of State Bar; except as they may be authorized in writing to do so by State Bar. State Bar hereby reserves to itself the right to conduct negotiations itself or through its legal counsel without the assistance or presence of Broker. All leases shall be on a form of lease approved by State Bar. State Bar shall provide Broker with State Bar's lease form, which form is subject to change from time to time by State Bar.

(h) At State Bar's request, attend meetings and report on the progress of Broker's activities under this Agreement and the results thereof, including the provision of a written leasing status report (as further described in Section 3.7 below).

(i) Deliver to State Bar sufficient financial information with respect to any prospective tenant and any other information requested by State Bar from such prospective tenant.

(j) Develop and implement an advertising campaign and to fulfill Broker's obligations outlined in Exhibit B attached hereto and made a part hereof.

(k) Provide a schedule of performance of Broker's services described herein, with periodic (but no less frequently than monthly) updating thereof, for State Bar's review and approval.

(l) Develop and implement a canvassing program to:

(i) Contact prospective tenants.

(ii) Personally contact prospective tenant decision makers.

(iii) Make presentations to major commercial leasing brokerage houses in the area of the Building.

(iv) Mail a comprehensive leasing package for the Premises to all prospective tenants and brokers in the area of the Building.

(v) Regularly follow-up with and re-contact prospective tenants.

(vi) Use best efforts to show the Premises to all prospective tenants in the market for space in the area of the Building.

### 3.4 Duty to Cooperate With Others.

(a) Outside Brokers. Broker and the Leasing Team shall solicit and fully cooperate with brokers not affiliated with Broker ("Outside Brokers") who may have prospective tenants for the Premises and shall support and coordinate Outside Brokers' efforts to lease the Premises. The Leasing Team shall make initial and follow-up contacts with Outside Brokers throughout the term of this Agreement, and provide the Outside Brokers with full information about the Premises, including the compensation for Outside Brokers.

(b) Inside Brokers. The Leasing Team shall make every possible effort to fully inform all the brokers affiliated with all of Broker's commercial brokerage offices ("Inside Brokers") of the availability of the Premises. The Leasing Team shall fully cooperate with and coordinate the efforts of Inside Brokers to lease the Premises. The Leasing Team shall make initial and follow-up contacts with Inside Brokers throughout the term of this Agreement, and provide the Inside Brokers with full information about the Premises, including the compensation for Inside Brokers.

(c) Owner. Without limiting the generality of the foregoing, Broker agrees to lend full assistance to State Bar and State Bar's designated representatives in the planning, coordination and implementation of the leasing, advertising, publicity and promotion of the Premises and work letter documentation relating to the Premises, and to continue to lend assistance and cooperation to State Bar through the date the tenant or tenants enter into occupancy in the Premises.

3.5 Duty to Show the Premises to Prospects. All prospects developed either as walk-ins, by telephone, by direct contact by any member of the Leasing Team, or by referrals or contacts developed in any other manner shall be assigned to a

member of the Leasing Team, and such prospects shall be shown the Premises and shall be diligently and promptly pursued.

3.6 Duty to Conduct Negotiations. Broker shall participate in negotiations with prospective tenants based upon the rental schedules approved by State Bar, State Bar's lease form, State Bar's lease terms, including duration of lease, and options, if any, and State Bar's leasing guidelines as same may be revised by State Bar from time to time. Broker shall promptly deliver any and all offers to lease space to State Bar. State Bar shall have the right, in its sole discretion, to reject any proposed lease. Notwithstanding anything to the contrary contained herein, only State Bar shall have the authority to execute any lease or any other agreement relating to the Premises or the use, occupancy or control of all or any part thereof, and Broker is not authorized to execute any offer to sell or to lease or occupy the Premises, any broker cooperation agreement or any other agreement relating to the sale, lease or occupancy of the Premises.

3.7 Duty to Report to State Bar. The Leasing Team shall attend a marketing meeting at least once every two (2) weeks, at a time and place established by State Bar, to inform State Bar of the status of the Leasing Team's efforts. At the meetings, the Leasing Team shall provide State Bar:

(a) A written report of the marketing conditions, status of prospects and negotiations and the information referenced above;

(b) A list of all "active contacts";  
and

(c) Any other information State Bar reasonably requests.

At these meetings Broker shall also recommend marketing efforts and techniques to enhance and encourage occupancy of the Premises.

3.8 Compliance with Laws. Broker shall, at all times during the term of this Agreement, fully comply with all applicable rules, regulations and policies respecting the leasing of the Premises, as State Bar may establish from time to time in writing, or as may be required by governmental authorities or agencies having jurisdiction over such matters. Broker shall cause each of its staff members and employees to comply with such rules, regulations and policies.

3.9 Records. Broker shall keep appropriate books and records regarding leasing information for the Premises as is customarily maintained by brokers performing other services similar to those to be performed by Broker hereunder. Any such books and records prepared or maintained by Broker in

connection with the Premises shall at all times be strictly confidential, shall be State Bar's sole property, and shall not be removed from Broker's office without State Bar's prior consent. On the date of expiration or earlier termination of this Agreement, Broker shall deliver to State Bar copies of Broker's records related in any way to the Premises, including but not limited to all prospective tenant information.

3.10 Licenses. Broker has and shall maintain during the term hereof all necessary licenses, permits and authorizations as are required for the performance by Broker, and employees acting on its behalf, of their services under this Agreement and Broker shall notify State Bar immediately should any such license, permit or authorization no longer be in effect or in good standing.

3.11 Other Interests. State Bar acknowledges that Broker is currently the leasing agent for other properties in the locality of the Building and State Bar agrees that Broker shall have the right to continue to act as leasing agent for such other properties as well as additional properties in the locality of the Building so long as the same shall not interfere with Broker's faithful performance of this Agreement. The foregoing to the contrary notwithstanding, Broker shall not act or fail to act in any way which would be against State Bar's best interest under this Agreement.

4. INSURANCE. Broker shall maintain, at its sole cost and expense, insurance coverage which complies with the following minimum requirements:

4.1 Workers' Compensation. Workers' Compensation Insurance in accordance with applicable law, and Employer's Liability Insurance, with limits of not less than One Million Dollars (\$1,000,000). The Workers' Compensation Insurance shall comply with the requirements of California law. These policies shall include a waiver of subrogation in favor of the State Bar.

4.2 Commercial General Liability. Commercial General Liability Insurance, including coverage for bodily injury, property damage, personal injury, advertising injury, employee and contractual liability exclusions deleted, contractual liability, owner's protective liability, and broad form property damage, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Two Million Dollars (\$2,000,000) annual aggregate.

4.3 Comprehensive Automobile Liability. Comprehensive Automobile Liability Insurance covering all owned, leased, hired, or non-owned vehicles with limits of liability of not less than Two Million Dollars (\$2,000,000) combined single limit for personal injury and property damage.

4.4 Professional Liability. Professional Liability Insurance (errors and omissions) with limits of liability of not less than Two Million Dollars (\$2,000,000) per claim and Two Million Dollars (\$2,000,000) in the aggregate. Broker agrees to maintain the above-required minimum of professional liability coverage in force for a period of two (2) years following the expiration or sooner termination of this Agreement.

4.5 Policy Requirements. The limits of liability of the insurance coverage specified in Paragraphs 4.1 to 4.4, above, may be provided by any combination of primary insurance policies and excess liability ("umbrella") insurance policies. Broker agrees to procure by endorsement the addition of State Bar as an additional insured as to those insurance policies maintained by Broker which cover losses, costs, expenses, damages, liability and attorneys' fees arising out of or resulting from the negligence or other misconduct of Broker, its staff, employees, agents and representatives, including at a minimum and without limitation the insurance maintained pursuant to Paragraphs 4.2 and 4.3. Broker shall promptly deliver to State Bar certificates of insurance, copies of insurance policies, or other evidence of the minimum levels of insurance set forth above, as reasonably requested by State Bar. The policies required under this Agreement or endorsements thereof shall provide that none of the required coverages may be cancelled or terminated without thirty (30) days prior written notice to State Bar. Notwithstanding the expiration or early termination of this Agreement, Broker shall maintain insurance coverage such that the provisions of this Paragraph 4 shall survive such expiration or early termination of this Agreement and Broker's insurance carriers shall remain obligated under the policies for all claims, damages or other matters that arise which are within the scope of the requirements of insurance coverage set forth in this Paragraph 4. Nothing in this paragraph shall be construed to in any way limit the scope of the indemnification granted in Section 11 hereof.

4.6 It is further agreed that the foregoing insurance coverage shall be written with insurance carriers duly licensed and qualified to do business in the State of California, and having a general policy holder's rating of not less than "A-" and a financial rating of not less than Class "X", as rated in the most current available "Best's Key Rating Guide". Such insurance shall be primary and other insurance carried by the State Bar is non-contributory and shall not be construed as excess to that of the Broker's insurance policy. Please forward documentation to:

Ms. Sheri Pearl  
Director, Real Property Operations  
The State Bar of California  
180 Howard Street  
San Francisco, California 94105

## 5. RIGHTS AND DUTIES OF OWNER.

5.1 Compensation. State Bar shall pay to Broker and Broker shall accept as full compensation in respect of the services provided hereunder, both general and with regard to each specific lease transaction, a commission to be computed in each case in accordance with the Commission Schedule attached hereto and made a part hereof as Exhibit C, for each lease entered into between State Bar and a tenant for the Premises during the term hereof, subject however to the following terms and conditions:

(a) Each commission shall be earned and payable to Broker by State Bar in two parts. The first installment of the commission shall become earned and payable only upon the last to occur of: (i) full execution of the lease by both State Bar and the tenant, including agreement on all work letter items and plans therefor, and (ii) the satisfaction of all contingencies with respect to the effectiveness of the lease. State Bar expressly retains the right to break off negotiations or refuse to execute a lease for any reason with no commission becoming earned and payable in such event. The remainder of the commission shall become earned and payable only upon the last to occur of: (1) the date the tenant takes actual possession of the leased premises and occupies the leased premises for normal business operations, and (2) the date the tenant is obligated to commence the payment of full rent pursuant to the terms of the lease (i.e., following the expiration of any free or abated rent periods). The first installment of the commission shall be fifty percent (50%) of the total commission earned; provided, however, if the date on which the tenant is scheduled to occupy its leased premises is more than three (3) months following the date the lease is executed by State Bar and tenant, the first installment of the commission shall be twenty-five percent (25%) of the total commission earned. No leasing commissions shall be payable to Broker following the expiration of the term of this Agreement or with respect to any renewal, extension, modification or expansion of any lease for the Premises, except as specifically set forth otherwise herein or as may be agreed upon by State Bar and Broker pursuant to a separate written agreement.

(b) No commission shall be payable under this Agreement as a result of leases for space in areas of the real property and the Building other than for the Premises, exclusively.

(c) If a prospective tenant and State Bar sign a lease and the tenant (i) fails to occupy the premises, or (ii) within ninety (90) days after the tenant is obligated to commence the payment of full rent, defaults on its obligations pursuant to the terms of its lease, then no other commissions for such tenant or lease shall be due Broker, and Broker shall refund to State Bar that portion of the commission

previously paid to Broker. The space not occupied by the tenant shall be made available for lease and Broker shall receive compensation upon successful leasing and occupancy of the space to another prospect in accordance with the terms hereof.

(d) The parties recognize that Broker may be required to split its commission with Outside Brokers where there has been cooperation with Outside Brokers to secure a new tenant. In the event that a prospective tenant shall be represented by an Outside Broker, then Broker shall cooperate with the Outside Broker and shall secure an agreement with the Outside Broker wherein Broker agrees to pay the Outside Broker and the Outside Broker agrees to accept directly from Broker, in accordance with the payment provisions of this Agreement, a commission in an amount not in excess of the commission set forth in Exhibit C. State Bar shall have no liability or responsibility whatsoever to the Outside Broker pursuant to this Agreement, its only obligation hereunder being to pay to Broker the amount set forth in Exhibit C pursuant to the terms of this Agreement. Broker shall have the full and only responsibility for the payment of Outside Brokers from the commissions payable to Broker hereunder.

5.2 Leasing by State Bar. State Bar shall be entitled to show the Premises, offer the Premises for lease, and enter into leases of the Premises during and after the term of this Agreement. Broker agrees and understands that if State Bar shows the Premises, offers the Premises for lease, procures a tenant willing to lease the Premises, and leases the Premises, then Broker shall not be entitled to receive a commission or any other sums other than the commission specified in Section 1.2 of Exhibit C hereto if no outside broker is involved. Broker acknowledges that it will be entitled to no commission whatsoever if State Bar leases to any entity listed in Exhibit D hereto.

5.3 No Costs or Expenses. Except for a commission payable in accordance with the terms of this Agreement, Broker shall not be entitled to reimbursement for any expenses or any other costs Broker incurs related to or involving the performance of the terms of this Agreement unless expressly agreed to in writing by State Bar.

5.4 Provisions Controlling. The provisions of this Section 5 shall control over any conflicting provisions of this Agreement.

## 6. PROSPECTIVE TENANTS' USE, OCCUPANCY, COMPATIBILITY AND FINANCIAL CAPABILITIES.

6.1 Financial Requirements. All prospective tenants must meet the financial requirements established by State Bar. The Leasing Team shall use its best efforts to obtain from prospective tenants sufficient financial information

and any other information and documents which State Bar or State Bar's lender(s) require prospective tenants to deliver and/or execute. State Bar may reject a prospective tenant if that tenant, in State Bar's sole discretion, does not meet State Bar's or its lender(s)' standards or refuses to deliver and/or execute any documents so required.

6.2 Compatible Use or Occupancy. State Bar shall have the right to reject a prospective tenant if State Bar, in its sole discretion, determines that the prospective tenant's proposed use or occupancy is not compatible with the Building.

6.3 No Compensation. State Bar shall not be liable for any compensation under this Agreement if State Bar or its lender(s) determine in their sole discretion that a prospective tenant's financial capability or proposed use or occupancy is unsatisfactory and the space is not leased to such prospective tenant.

## 7. TERM.

7.1 Term. The term of this Agreement shall commence \_\_\_\_\_, 20\_\_\_\_ and, unless otherwise terminated as provided herein, shall continue until \_\_\_\_\_, 20\_\_\_\_, whereupon this Agreement shall terminate.

### 7.2 Termination For Cause.

(a) In the event State Bar or Broker shall materially default in the performance or observance of any term, condition or covenant contained in this Agreement, and such default shall continue for a period of ten (10) days after written notice shall have been given to the defaulting party specifying the default and requesting that the same be remedied, then the non-defaulting party has the right, in addition to all other rights and remedies under this Agreement, at law, or in equity, to terminate this Agreement at any time thereafter before the remedying of such default, upon written notice to the defaulting party that this Agreement shall be terminated on the date specified in the notice. Notwithstanding the foregoing, if the default is of such a nature that it cannot be remedied within the ten (10) day period provided for above, the defaulting party shall not be in default hereunder if it shall, in good faith, have commenced to remedy the default within such ten (10) day period, shall subsequently prosecute to completion with diligence and continuity the remedying of the default, and shall remedy the default within a reasonable time thereafter.

(b) This Agreement shall terminate immediately and automatically if:

(i) all or substantially all of the Premises is condemned or acquired by eminent domain;

(ii) all or substantially all of the Premises is destroyed by fire or other casualty, as a result of which all or substantially all of the tenants in the Premises are unable to continue the normal conduct of their business in their respective occupied spaces and are permanently released under their respective leases from the payment of all rent thereunder; or

(iii) appointment of a receiver to take possession of all or substantially all the assets of Broker, or an assignment by Broker for the benefit of creditors, or any action taken or suffered by Broker under any insolvency, bankruptcy, reorganization, moratorium or other debtor-relief act or statute, whether now existing or hereafter amended or enacted.

(c) If State Bar terminates this Agreement for cause, State Bar shall not be liable for any compensation under this Agreement on account of any lease not fully executed by both State Bar and the tenant prior to the termination date.

7.3 Termination Without Cause. Anything contained in this Agreement to the contrary notwithstanding, this Agreement may be terminated by State Bar or Broker, without cause, upon thirty (30) days prior written notice to the other. If Broker terminates this Agreement without cause, State Bar shall not be liable for any compensation under this Agreement on account of any lease not fully executed by both State Bar and the tenant prior to the termination date. If State Bar terminates this Agreement without cause as provided herein, State Bar shall be obligated to pay Broker a commission for tenants who execute a lease for the Premises following the termination date only if prior to the date of termination Broker shall have delivered to State Bar a list (the "Prospective Tenant List") of all prospective tenants (i) whom Broker has personally contacted to lease the Premises within sixty (60) days prior to the termination date, and (ii) who have appeared in writing on Broker's periodic marketing report, in which case State Bar shall pay Broker a commission pursuant to this Agreement for any tenant on the Prospective Tenant List who executes a lease for the Premises within sixty (60) days following the date of termination of this Agreement.

7.4 Obligations Through Termination. In the event of termination of this Agreement in accordance with the provisions hereof, each of the parties shall perform their respective obligations under this Agreement through the date of termination. Upon the termination of this Agreement, (i) State Bar's appointment of Broker hereunder shall cease and terminate and, except as otherwise specifically provided hereunder, State

Bar shall have no further obligation or liability to Broker, and (ii) Broker shall no longer have any authority to represent State Bar or take or cause be taken any actions on State Bar's behalf. Broker agrees that for a period of ninety (90) days after such termination, it will make the Leasing Team reasonably available to consult with and advise State Bar or such other person or persons as may be designated by State Bar regarding the leasing of the Premises. Upon any termination of this Agreement by either party, Broker shall forthwith surrender and deliver to State Bar any space in the Building occupied by Broker. The provisions of this Section 7.4 shall survive any expiration or termination of this Agreement.

7.5 Continuation of Agreement. Unless this Agreement shall have been terminated by State Bar for cause, if State Bar shall have entered into a binding letter of intent, agreement or other binding contract to lease the Premises prior to the termination of this Agreement, then notwithstanding the termination of this Agreement, this Agreement shall be extended, but only as to the lease contemplated by such letter, agreement or contract, and Broker and the Leasing Team shall, as a condition to the payment of any commission otherwise provided for herein, continue to perform any and all services to be performed by them under this Agreement in connection with such letter, agreement or contract and the lease of the Premises contemplated thereby until the earlier to occur of (a) the execution of such lease, or (b) the termination of such letter, agreement or contract, whereupon this Agreement shall terminate.

8. LIABILITY OF STATE BAR. State Bar shall not have any liability under or in connection with the provisions of this Agreement and Broker hereby waives any and all liability and recourse to State Bar.

9. NONDISCRIMINATION.

9.1 Fair Employment and Housing Act. With respect to this Agreement, Broker and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Broker and its subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Broker and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (Cal. Code of Regulations, Title 2, Section 7285.0 et seq.), as amended from time to time. The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, as amended from time to time, are incorporated into and made a part of this Agreement by reference as if set forth in full.

9.2 Subcontracts. Broker shall include the nondiscrimination and compliance provisions of Section 9.1 in all subcontracts to perform work under this Agreement. Broker shall divulge to State Bar any existing or potential relationship between Broker and any subcontractor.

9.3 Union Notice. Broker and its subcontractors shall give written notice of their obligations under Section 9.1 to any labor organization with which they have collective bargaining or other agreements.

## 10. SUBORDINATION.

10.1 Subordination. This Agreement shall not constitute an interest in real estate but in all events shall be subordinate to any mortgage, ground lease or underlying lease now or hereafter encumbering the Building or the improvements thereon or any portion thereof. In confirmation of such subordination, the parties hereto shall execute and deliver to the holder of such mortgage, ground lease or underlying lease such subordination instruments as the holder may reasonably request. The parties hereto also agree to such modifications to this Agreement as may be reasonably requested by the holder or holders of any such mortgages, ground leases, or underlying leases.

10.2 Estoppel Certificate. Broker agrees at any time and from time to time to execute, acknowledge and deliver to State Bar a statement in writing (i) certifying that this Agreement is unmodified and in full force and effect (or if there have been modifications, that the Agreement is in full force and effect as modified and stating the modifications), (ii) stating whether or not State Bar is in default of any covenant, agreement or condition contained in this Agreement, and, if so, specifying each such default of which Broker may have knowledge and (iii) stating the address to which notices to Broker shall be sent.

11. INDEMNIFICATION. Broker shall indemnify, defend (through legal counsel selected by State Bar) and hold State Bar, its Board of Governors, officers, employees, agents and representatives and each of their successors and assigns harmless from and against any and all claims, losses, damages, expenses, causes of action and liabilities (including, without limitation, attorneys' fees) arising out of (a) the acts or omissions of Broker, its agents, representatives, and employees in connection with the services, actions or inactions of Broker, its agents, representatives or employees relating to the marketing or leasing of the Premises or the breach by Broker of its obligations to provide services as described in this Agreement, including but not limited to any action brought by another broker for services rendered in association with the Premises, or (b) any action brought by a tenant or prospective tenant based upon the acts or representations of Broker, its

agents, representatives or employees. The intent of the preceding includes, without limitation, the commitment that Broker will defend and indemnify State Bar against commission Claims from other real estate brokers. If any liabilities referred to in this Agreement arise or are made, asserted, or threatened against any of the parties indemnified in this Agreement, State Bar shall have the right to withhold from any commission due or to become due to Broker an amount sufficient in its reasonable judgment to protect and indemnify the indemnified parties from and against any such liabilities. Broker agrees that its obligations under this indemnity will survive the expiration and termination of the Agreement. In the event the State Bar and Broker are named as defendants in the same civil action, and the State Bar determines that a conflict of interest exists between the parties, Broker agrees to provide, at its own cost, independent counsel for the State Bar. The State Bar may, at its option, designate its Office of General Counsel as equal participating counsel in any litigation wherein the State Bar is defended by Broker.

## 12. ASSIGNMENT.

12.1 State Bar may assign this Agreement without the consent of Broker. In the event of the assignment or transfer of State Bar's interest in this Agreement, and in the further event of an assumption of this Agreement by State Bar's assignee or transferee, all obligations and liabilities of State Bar under this Agreement, to the extent so assigned and assumed, shall terminate, and thereupon all such obligations and liabilities, to the extent so assigned and assumed, shall be the responsibility of the party to whom State Bar's interest has been assigned or transferred.

12.2 This Agreement is personal to Broker, and Broker shall have no right, power or authority to assign all or any portion of this Agreement or any monies due or to become due hereunder, or to delegate any duties or obligations arising hereunder, either voluntarily or involuntarily or by operation of law, without the prior written consent of State Bar, which consent may be withheld in State Bar's sole and absolute discretion. Each permitted assignee of Broker hereunder shall agree in writing to personally assume, perform and be bound by all of the terms, covenants, conditions and agreements contained in this Agreement; provided, however, Broker shall not be released from liability under this Agreement.

12.3 Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties; provided, however, that in the event of a sale of the Building by State Bar during the term of this Agreement, the purchaser at such sale shall, notwithstanding anything to the contrary contained herein, have the right to terminate this Agreement, with or without cause, upon thirty (30) days prior written notice to Broker.

13. PUBLICITY. Broker agrees that the terms of the transactions contemplated by this Agreement, and all information made available by one party to the other or in any way relating to the other party's interest in that transaction, shall be maintained in strict confidence, and no disclosure of such information will be made, except to such attorneys, accountants, brokers, prospective tenants and others as are reasonably required to evaluate and consummate that transaction. Broker further agrees and covenants that Broker shall not disclose or authorize the disclosure of the terms of this Agreement or any instruments, documents, or assignments delivered in connection with this Agreement, or the identity of the other party to this Agreement in any public statement, news release, or other announcement or publication, except as specifically authorized in writing by State Bar.

14. CONFIDENTIALITY. To the extent that information regarding the Building, its ownership, financing, policies, procedures and/or other matters is made available to Broker and would otherwise be held as confidential, Broker agrees to respect and to cause its employees and agents to respect said confidentiality. All documents, plans, drawings, correspondence or other materials furnished by State Bar to Broker shall remain the property of State Bar and, upon the termination of this Agreement or upon State Bar's earlier request, shall be returned to State Bar.

15. THIRD PARTY BENEFICIARY. If any claims, demands, suits or other legal proceedings are made or instituted against State Bar, on the one hand, or Broker, on the other hand, by other parties arising out of any of the matters to which this Agreement relates, State Bar or Broker, as the case may be, agrees to give all reasonable information and assistance in the defense or other disposition of any of such proceedings. This Agreement shall not be deemed to confer any rights upon any individual or entity which is not a party hereto, and the parties hereto expressly disclaim any such third-party benefit.

16. STAFF AND NATURE OF RELATIONSHIP. The nature of the relationship between State Bar and Broker is as set forth in this Agreement, and nothing herein contained shall be construed or interpreted to imply that the principals, officers or employees of Broker are employees of State Bar. Broker acknowledges and agrees that it is acting solely as an independent contractor and not as a partner, joint venturer, employee or agent of State Bar. Broker shall perform the services, or cause its officers and employees to perform the services, described in this Agreement.

17. MISCELLANEOUS.

17.1 Legal Counsel. Where, in State Bar's judgment, legal counsel is required in connection with the Building or any other activities pursuant to this Agreement,

such counsel shall be through attorneys designated and directed by State Bar.

17.2 Attorneys' Fees. In the event either State Bar or Broker fails to perform any of its obligations under this Agreement, or in the event a dispute arises concerning the meaning or interpretation of any provision of this Agreement, each party shall pay any and all costs and expenses incurred by it in enforcing or establishing its rights hereunder, including, without limitation, all of its attorneys' fees and one-half (1/2) of court costs. In addition, each party in such dispute shall pay its own attorneys' fees in any post-judgment proceedings to collect or enforce any judgment on this Agreement. This provision is separate and several and shall survive the merger of this provision into any judgment on this Agreement.

17.3 Notices. Any notice required by the terms hereof shall be given in writing at the address set forth below by any of the following means: (a) personal service, (b) facsimile, acknowledged by the recipient in writing or (c) registered or certified mail, return receipt requested, as follows:

If to Broker: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Telecopy No.: \_\_\_\_\_

If to State Bar: The State Bar of California  
Office of Real Property Operations  
180 Howard Street  
San Francisco, CA 94105-1639  
Attention: Sheri Pearl, Director  
Telecopy No.: (415) 538-2340

With a copy to:  
  
Office of General Counsel  
180 Howard Street  
San Francisco, CA 94105-1639  
Attention: Mark Torres-Gil, Esq.  
Telecopy No.: (415) 538- 2012

Such address(es) may be changed by either party by notice to the other in the manner provided above. Any notice sent (i) pursuant to subsection (a) shall be deemed received upon personal service, (ii) pursuant to subsection (b) shall be deemed received upon confirmation by the transmitting machine and (iii) pursuant to subsection (c) shall be deemed received three (3) days following deposit in the United States mail.

17.4 Captions. The captions of this Agreement are inserted only for the purpose of convenient reference and do not define, limit or prescribe the scope or intent of this Agreement or any part hereof.

17.5 Applicable Law. This Agreement shall be construed in accordance with the laws of the State of California. Any litigation arising out of this Agreement shall be filed in the appropriate court in San Francisco, California.

17.6 Entire Agreement. This Agreement embodies the entire understanding of the parties and there are no further agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof.

17.7 No Waiver. No failure by State Bar to insist upon the strict performance of any obligation, covenant, agreement, term, or condition of this Agreement, or to exercise any right or remedy available upon a breach or any subsequent breach of such obligation, covenant, agreement, term, or condition, shall act as a waiver of any rights or remedies under this Agreement. No obligation, covenant, agreement, term, or condition of this Agreement, and no breach of this Agreement, shall be waived, altered, or modified, except by written instrument. No specific written waiver of any particular breach shall affect or alter this Agreement, and thereafter, each and every obligation, covenant, agreement, term, and condition of this Agreement shall continue in full force and effect.

17.8 Severability. Each provision of this Agreement is intended to be severable. If any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, that provision shall be severed from this Agreement and shall not affect the validity of the remainder of this Agreement.

17.9 Dispute Resolution. The parties agree that in the event of any litigation between them arising out of in or any way relating to this Agreement, the Premises or the Building, such litigation shall be tried by the reference procedures set forth in California Code of Civil Procedure Section 638, et seq. A single referee shall be appointed to try the matter and such referee shall be a retired judge. Each party may reject two judges appointed by the court. The referee shall be compensated at the rate per hour set by the referee. Each party shall pay one-half of the costs and fees for the reference proceeding during the pendency of the reference proceeding. The losing party shall pay the entire cost of such litigation including the referee's fees and costs and shall reimburse the prevailing party for any portion of such costs or fees paid by the prevailing party. To the extent permitted by law, each party waives the right to trial by jury.

17.10 Time Is Of The Essence. Time is of the essence of this Agreement.

17.11 Further Assurances. The parties hereby agree to execute such other documents and perform such other acts as may be necessary or desirable to carry out the purposes of this Agreement.

17.12 Terminology. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural; and the plural shall include the singular.

17.13 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single instrument.

17.14 Non-Recourse. Notwithstanding any other provision of this Agreement, to the contrary, no member of the State Bar's Board of Governors, nor any employee, agent, officer or other representative of the State Bar (each an "Individual") shall have any personal liability for the performance of any obligations or in respect of any liability of the State Bar under this Agreement, and no monetary or other judgment shall be sought or enforced against any such Individuals or their assets, all such personal liability being expressly waived by Broker. Further, the covenants and obligations contained in this Agreement on the part of the State Bar shall be covenants and obligations of the entity comprising the State Bar only, and not of the Individuals. No Individual shall be individually liable for breach of any covenant or obligation of the State Bar, and no recourse shall be had against the assets of any Individual for payment of any sums due, or enforcement of any other relief, based upon any claim made by Broker for breach of the State Bar's covenants or obligations.

17.15 Interpretation. No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or drafted such provision.

17.16 Audit. Broker agrees that State Bar or its designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Broker agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Broker agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have

information related to such records. Further, Broker agrees to include a similar right of the State Bar to audit records and interview staff in any subcontract related to performance of this Agreement.

17.17 Force Majeure. Neither party will be deemed in default of this Agreement or any provision hereunder to the extent that any delay or failure in the performance of the obligations of such party (other than the payment of money) results from any significant and material causes beyond its reasonable control and without fault or negligence by such party. Examples of such causes include, but are not limited to, (1) acts of God or public enemy, (2) acts of the government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) embargoes, (9) earthquakes, and (10) unusually severe weather.

17.18 Approval. This Agreement is of no force or effect until signed by both parties. Broker may not commence performance until such approval has been obtained.

17.19 Broker shall continue with the responsibilities under this Agreement during any dispute.

17.20 Liens. This Agreement shall not create an interest in real property and it shall not be recorded in the public records of any jurisdiction. Notwithstanding anything to the contrary contained herein, neither Broker nor any officer, partner, representative or agent thereof shall be entitled to place, file or record a lien against the Building or the Premises on account of any sums alleged to be due and payable to Broker.

IN WITNESS OF THE FOREGOING, State Bar and Broker have caused their duly authorized representatives to execute this Agreement as of the date first above written.

State Bar:

Broker:

STATE BAR OF CALIFORNIA,  
a public corporation

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
(Print Name and Title)

\_\_\_\_\_  
(Print Name and Title)

**EXHIBIT A**

**LEGAL DESCRIPTION**

180 Howard Street,  
San Francisco, California

Parcel One

Beginning at a point on the Northeasterly line of Howard Street, distant thereon 91 feet and 8 inches Northeasterly from the Northeasterly line of Main Street; running thence Northeasterly along said line of Main Street 137 feet and 6 inches; thence at a right angle Southwesterly and parallel with Howard Street 45 feet and 10 inches; and thence at a right angle Southeasterly 137 feet and 6 inches to the point of beginning on Howard Street.

Being beach and water Lot 709.

Parcel Two

Beginning at a point on the Northwesterly line of Main Street, distant thereon 100 feet Northwesterly from the Northwesterly line of Howard Street, running thence Northwesterly along said Northwesterly line of Howard Street 45 feet and 10 inches; thence at a right angle Northwesterly line of Main Street 37 feet and 6 inches; thence at a right angle Northeasterly 91 feet and 8 inches; thence at a right angle Southeasterly 37 feet and 6 inches; thence at a right angle Southwesterly 91 feet and 8 inches to the point of beginning.

Being a portion of 100 Vara Block No. 325.

Parcel Three

Beginning at the point of intersection of the Northeasterly line of Main Street and the Northwesterly line of Howard Street; running thence Northwesterly along said line of Main Street 100 feet; thence at a right angle Northeasterly 91 feet and 8 inches; thence at a right angle Southeasterly 100 feet to the Northwesterly line of Howard Street; thence at a right angle Southwesterly along said line of Howard Street 91 feet and 8 inches to the point of beginning.

Being a portion of 100 Vara Block No. 325

Assessor's Lot 20, Block 3717

**EXHIBIT B**

**ADVERTISING AND PROMOTION**

Broker shall, at its own cost, formulate an advertising and promotion campaign for the Premises which shall include the following, and Broker agrees, at its own cost, to:

1. Purchase and install signs, the appearance and location of which have been previously approved by State Bar, adequately identifying the Premises, Broker and, if requested, State Bar.
2. Prepare and distribute by mail and/or electronic means the leasing packages and brochures prepared by Broker, which packages and brochures have been previously approved by State Bar.
3. Distribute by mail and/or electronic means Premises flyer sheets, previously approved by State Bar, providing comprehensive leasing information to Outside Brokers on a periodic basis acceptable to State Bar.
4. Prepare and submit press releases to keep the public informed of the Premises. The content of such releases shall be approved by State Bar prior to submission to the media.

EXHIBIT C

COMMISSION SCHEDULE

I. LEASE COMMISSION SCHEDULE.

State Bar agrees to pay Broker a commission for the Premises which is leased during the term of the Leasing Services Agreement to which this Exhibit is attached (the "Agreement") according to the terms of the Agreement including without limitation Paragraph 5 thereof, and this Exhibit C, and subject to the exclusions and reductions set forth below:

1. COMMISSION FOR SPACE LEASED - OFFICE SPACE: FLOORS 11 AND 12.

1.1 State Bar agrees to pay Broker (inclusive of all Outside and Inside brokers) for the Premises leased (on a modified gross basis only) during the term of the Agreement according to the following schedule:

(i) \$\_\_\_\_\_ per rentable square foot for lease years one (1) through five (5) inclusive; and

(ii) \$\_\_\_\_\_ per rentable square foot for lease years six (6) through ten (10) inclusive.

Absolutely no commission shall be payable for any lease year following the tenth (10th) year whether by renewal, extension, option, addition or otherwise.

1.2 In the event that no Outside Broker is involved in the placement of a tenant for a particular lease, State Bar agrees to pay Broker, in accordance with the following schedule.

(i) \$\_\_\_\_\_ per rentable square foot for lease years one (1) through five (5) inclusive; and

(ii) \$\_\_\_\_\_ per rentable square foot for lease years six (6) through ten (10) inclusive.

Absolutely no commission shall be payable for any lease year following the tenth(10th) year whether by renewal, extension, option, addition or otherwise.

2. COMMISSION FOR SPACE LEASED - RETAIL SPACE: GROUND FLOOR.

2.1 State Bar agrees to pay Broker (inclusive of all Outside and Inside brokers) for the Premises leased (on a triple net basis only) during the term of the Agreement according to the following schedule:

(i) \_\_\_\_\_% of Base Rent (excluding annual CPI increases) for lease years one (1) through three (3) inclusive;

(ii) \_\_\_\_\_% of Base Rent (excluding annual CPI increases) for lease years four (4) through five (5) inclusive; and

(iii) \_\_\_\_\_% of Base Rent (excluding annual CPI increases) for lease years six (6) through ten (10) inclusive.

Absolutely no commission shall be payable for any lease year following the tenth (10th) year whether by renewal, extension, option, addition or otherwise.

2.2 In the event that no Outside Broker is involved in the placement of a tenant for a particular lease, State Bar agrees to pay Broker, in accordance with the following schedule.

(i) \_\_\_\_\_% of Base Rent (excluding annual CPI increases) for lease years one (1) through three (3) inclusive;

(ii) \_\_\_\_\_% of Base Rent (excluding annual CPI increases) for lease years four (4) through five (5) inclusive; and

(iii) \_\_\_\_\_% of Base Rent (excluding annual CPI increases) for lease years six (6) through ten (10) inclusive.

Absolutely no commission shall be payable for any lease year following the tenth(10th) year whether by renewal, extension, option, addition or otherwise.

3. COMMISSION - LEASE TERMINATION RIGHT. Notwithstanding anything to the contrary contained herein, if a tenant, pursuant to the terms of its lease, is given the right to terminate such lease prior to the expiration of the term, the commission due in connection with such lease shall be paid to Broker based solely on the non-cancellable portion of the term of such lease;

provided, that upon such right to terminate expiring or being waived by such tenant, the commission for the remainder of the term of the Lease shall be paid to Broker.

4. NO COMMISSION WHEN TENANT EXTENDS OR OCCUPIES ADDITIONAL SPACE.

4.1 Options and Renewals. Broker shall have no claim for any commission as a result of the exercise of any option to renew or extend a lease term or for any renewal or extension by a tenant following the expiration of the term of the lease.

4.2 Additional Space. Broker shall have no claim for any commission as a result of the expansion by any tenant into additional space in the Building regardless of the date on which such expansion occurs. However, in the event a tenant enters into a lease in which the tenant is unconditionally obligated during the original term of the Lease to lease additional space in the Building at certain times and at specified prenegotiated rental rates, Broker shall be entitled to the commission set forth in Section 1.1 for such additional space at the time such tenant takes occupancy of and commences the payment of full rent on such additional space.

5. EXCLUSIONS.

The lease(s) between the State Bar and any existing tenant(s) of the building is/are excluded from this Agreement, and Broker shall not be entitled to receive any compensation in connection with the leasing of any additional space in the Building to any existing tenant(s) of the Building, or any of its/their affiliates.

II. DATE OF PAYMENT.

Payments shall be made within thirty (30) days following the date such payment is due under the Agreement, and State Bar has received Broker's invoice therefor.