

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM 10-Q

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended March 31, 2022

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

Commission file number 001-39668

Archer Aviation Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

85-2730902

(I.R.S. Employer Identification No.)

1880 Embarcadero Road, Palo Alto, CA 94303

(Address of principal executive offices, including zip code)

(650) 272-3233

Registrant's telephone number, including area code

N/A

(Former name, former address, and former fiscal year, if changed since last report)

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

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
Class A Common Stock, par value \$0.0001 per share	ACHR	New York Stock Exchange
Warrants, each whole warrant exercisable for one share of Class A Common Stock at an exercise price of \$11.50 per share	ACHR WS	New York Stock Exchange

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports); and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☒	Smaller reporting company	☒
		Emerging growth company	☒

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes ☐ No ☒

As of May 6, 2022, the number of shares of the registrant's Class A common stock outstanding was 169,477,724, and the number of shares of the registrant's Class B common stock outstanding was 70,951,345.

Archer Aviation Inc.
For 10-Q
For the Quarterly Period Ended March 31, 2022

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SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q (the “Quarterly Report”) contains forward-looking statements. All statements, other than statements of present or historical fact included or incorporated by reference, in this Quarterly Report regarding our future financial performance, as well as our strategy, future operations, financial position, estimated revenues and losses, projected costs, prospects, plans and objectives of management are forward-looking statements. When used in this Quarterly Report, the words “anticipate,” “believe,” “continue,” “could,” “estimate,” “expect,” “future,” “intends,” “may,” “might,” “plan,” “possible,” “potential,” “predict,” “project,” “seek,” “should,” “will,” “would,” the negative of such terms and other similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain such identifying words.

These forward-looking statements are based on information available as of the date of this Quarterly Report, and current expectations, assumptions, hopes, beliefs, intentions and strategies regarding future events. Accordingly, forward-looking statements in this Quarterly Report and in any document incorporated herein by reference should not be relied upon as representing our views as of any subsequent date, and we do not undertake any obligation to update forward-looking statements to reflect events or circumstances after the date they were made, whether as a result of new information, future events or otherwise, except as may be required under applicable securities laws.

As a result of a number of known and unknown risks and uncertainties, our actual results or performance may be materially different from those expressed or implied by these forward-looking statements. Some factors that could cause actual results to differ include those described in Part II, Item 1A, “Risk Factors” in this Quarterly Report and Part I, Item 1A, “Risk Factors” in our Annual Report on Form 10-K, filed with the Securities and Exchange Commission (the “SEC”) on March 14, 2022 (the “Annual Report”). Readers are urged to carefully review and consider the various disclosures made in this Quarterly Report, the Annual Report, and in other documents we file from time to time with the SEC that disclose risks and uncertainties that may affect our business. Moreover, new risks emerge from time to time. It is not possible for us to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements we may make. In light of these risks and uncertainties, the future events and circumstances discussed in this Quarterly Report and the Annual Report may not occur and actual results could differ materially and adversely from those anticipated or implied in the forward-looking statements.

In addition, statements that “we believe” and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the date of this Quarterly Report, and while we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain, and investors are cautioned not to unduly rely upon these statements.

As used herein, “Archer,” “the Company,” “Registrant,” “we,” “us,” “our,” and similar terms include Archer Aviation Inc. and its subsidiaries, unless the context indicates otherwise.

“Archer” and our other registered and common law trade names and trademarks of ours appearing in this Quarterly Report are our property. This Quarterly Report contains additional trade names and trademarks of other companies. We do not intend our use or display of other companies’ trade names or trademarks to imply an endorsement or sponsorship of us by such companies, or any relationship with any of these companies.

Part I - Financial Information
Item 1. Financial Statements

Archer Aviation Inc.
Consolidated Condensed Balance Sheets
(In millions, except share and per share data; unaudited)

	March 31, 2022	December 31, 2021
Assets		
Current assets		
Cash and cash equivalents	\$ 704.2	\$ 746.6
Restricted cash	2.9	0.3
Prepaid expenses	9.3	7.6
Other current assets	0.4	0.3
Total current assets	716.8	754.8
Property and equipment, net	5.9	5.9
Intangible assets, net	0.4	0.5
Right-of-use assets	12.7	4.5
Other long-term assets	2.1	2.7
Total assets	\$ 737.9	\$ 768.4
Liabilities and Stockholders' Equity		
Current liabilities		
Accounts payable	\$ 1.8	\$ 3.4
Current portion of lease liabilities	3.6	3.1
Current portion of notes payable	9.5	9.5
Accrued expenses and other current liabilities	19.4	12.3
Total current liabilities	34.3	28.3
Notes payable, net of current portion	7.0	9.3
Lease liabilities, net of current portion	8.8	1.2
Warrant liabilities	23.8	30.3
Other long-term liabilities	0.3	0.4
Total liabilities	74.2	69.5
Commitments and contingencies (Note 7)		
Stockholders' equity		
Preferred stock, \$0.0001 par value; 10,000,000 shares authorized; no shares issued and outstanding as of March 31, 2022 and December 31, 2021	—	—
Class A common stock, \$0.0001 par value; 700,000,000 shares authorized; 165,201,225 and 162,789,591 shares issued and outstanding as of March 31, 2022 and December 31, 2021, respectively	—	—
Class B common stock, \$0.0001 par value; 300,000,000 shares authorized; 73,579,586 and 74,937,945 shares issued and outstanding as of March 31, 2022 and December 31, 2021, respectively	—	—
Additional paid-in capital	1,096.5	1,072.5
Accumulated deficit	(432.8)	(373.6)
Total stockholders' equity	663.7	698.9
Total liabilities and stockholders' equity	\$ 737.9	\$ 768.4

See accompanying notes to consolidated condensed financial statements.

Archer Aviation Inc.
Consolidated Condensed Statements of Operations and Comprehensive Loss
(In millions, except share and per share data; unaudited)

	Three Months Ended March 31,	
	2022	2021
Operating expenses		
Research and development	\$ 27.5	\$ 10.1
General and administrative	37.8	6.6
Other warrant expense	—	78.2
Total operating expenses	65.3	94.9
Loss from operations	(65.3)	(94.9)
Other income, net	6.5	—
Interest expense, net	(0.4)	—
Loss before income taxes	(59.2)	(94.9)
Net loss and comprehensive loss	\$ (59.2)	\$ (94.9)
Net loss per share, basic and diluted	\$ (0.25)	\$ (1.70)
Weighted-average shares outstanding, basic and diluted	239,802,805	55,796,898

See accompanying notes to consolidated condensed financial statements.

Archer Aviation Inc.
Consolidated Condensed Statements of Stockholders' Equity
(In millions, except share data; unaudited)

	Common Stock				Additional Paid-in Capital	Accumulated Deficit	Total
	Class A		Class B				
	Shares	Amount	Shares	Amount			
Balance as of December 31, 2021	162,789,591	\$ —	74,937,945	\$ —	\$ 1,072.5	\$ (373.6)	\$ 698.9
Conversion of Class B to Class A common stock	1,757,980	—	(1,757,980)	—	—	—	—
Issuance of restricted stock and restricted stock expense	300,014	—	—	—	16.0	—	16.0
Exercise of stock options	353,640	—	399,621	—	0.1	—	0.1
Issuance of warrants and warrant expense	—	—	—	—	1.2	—	1.2
Stock-based compensation	—	—	—	—	6.7	—	6.7
Net loss	—	—	—	—	—	(59.2)	(59.2)
Balance as of March 31, 2022	165,201,225	\$ —	73,579,586	\$ —	\$ 1,096.5	\$ (432.8)	\$ 663.7

	Common Stock						Additional Paid-in Capital	Accumulated Deficit	Total
	Class A			Class B					
	Shares	Amount		Shares	Amount				
Balance as of December 31, 2020	49,828,517	\$	—	66,714,287	\$	—	\$ 61.7	\$ (25.8)	\$ 35.9
Exercise of stock options	147,319		—	525,044		—	—	—	—
Issuance of warrants	—		—	—		—	78.2	—	78.2
Stock-based compensation	—		—	—		—	0.9	—	0.9
Net loss	—		—	—		—	—	(94.9)	(94.9)
Balance as of March 31, 2021	49,975,836	\$	—	67,239,331	\$	—	\$ 140.8	\$ (120.7)	\$ 20.1

See accompanying notes to consolidated condensed financial statements.

Archer Aviation Inc.
Consolidated Condensed Statements of Cash Flows
(In millions; unaudited)

	Three Months Ended March 31,	
	2022	2021
Cash flows from operating activities		
Net loss	\$ (59.2)	\$ (94.9)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	0.6	0.2
Debt discount and issuance cost amortization	0.2	—
Stock-based compensation	24.5	0.9
Change in fair value of warrant liabilities	(6.6)	—
Non-cash lease expense	0.9	0.3
Research and development warrant expense	1.2	—
Other warrant expense	—	78.2
Changes in operating assets and liabilities:		
Prepaid expenses	(1.7)	—
Other current assets	(0.1)	(0.1)
Other long-term assets	0.6	—
Accounts payable	(1.6)	3.7
Accrued expenses and other current liabilities	5.3	—
Operating lease right-of-use assets and lease liabilities, net	(0.9)	(0.3)
Net cash used in operating activities	(36.8)	(12.0)
Cash flows from investing activities		
Purchase of property and equipment	(0.6)	(1.1)
Net cash used in investing activities	(0.6)	(1.1)
Cash flows from financing activities		
Repayment of long-term debt	(2.5)	—
Proceeds from exercise of stock options	0.1	—
Net cash used in financing activities	(2.4)	—
Net decrease in cash, cash equivalents, and restricted cash	(39.8)	(13.1)
Cash, cash equivalents, and restricted cash, beginning of period	746.9	36.6
Cash, cash equivalents, and restricted cash, end of period	\$ 707.1	\$ 23.5
Supplemental Cash Flow Information:		
Cash paid for interest	\$ 0.3	\$ —
Non-cash investing and financing activities:		
Purchases of property and equipment included in accounts payable	\$ —	\$ 0.1

See accompanying notes to consolidated condensed financial statements.

Archer Aviation Inc.
Notes to Consolidated Condensed Financial Statements (Unaudited)

Note 1 - Organization and Nature of Business***Organization and Nature of Business***

Archer Aviation Inc. (the “Company,” “we,” “us” or “our”), a Delaware corporation, with its headquarters located in Palo Alto, California, is an aerospace company. The Company’s mission is to advance the benefits of sustainable air mobility. The Company’s goal is to move people throughout the world’s cities in a quick, safe, sustainable, and cost-effective manner. To accomplish this goal, the Company is designing and developing an electric vertical takeoff and landing (“eVTOL”) aircraft for use in future urban air mobility (“UAM”) networks.

The Company’s Planned Lines of Business

Upon receipt of all necessary Federal Aviation Administration (“FAA”) certifications and any other government approvals necessary for the Company to manufacture and operate its aircraft, the Company intends to operate two complementary lines of business. The Company’s core focus is direct-to-consumer (“Archer UAM”) with its secondary focus being business-to-business (“Archer Direct”).

Archer UAM

The Company plans to operate its own UAM ecosystem initially in select major U.S. cities, such as Los Angeles and Miami. The Company’s UAM ecosystem will operate using its eVTOL aircraft, which is currently in development.

Archer Direct

The Company also plans to selectively sell a certain amount of its eVTOL aircraft to third parties.

Business Combination

On September 16, 2021 (the “Closing Date”), Archer Aviation Inc., a Delaware corporation (prior to the closing of the Business Combination (as defined below), “Legacy Archer”), Atlas Crest Investment Corp., a Delaware corporation (“Atlas”), and Artemis Acquisition Sub Inc., a Delaware corporation and a direct, wholly-owned subsidiary of Atlas (“Merger Sub”), consummated the closing of the transactions contemplated by the Business Combination Agreement, dated February 10, 2021, as amended and restated on July 29, 2021, by and among Atlas, Legacy Archer and Merger Sub (the “Business Combination Agreement”), following approval at a special meeting of the stockholders of Atlas held on September 14, 2021 (the “Special Meeting”). Unless otherwise specified or unless the context otherwise requires, references in these notes to Legacy Archer refer to Archer prior to the Business Combination and references in these notes to “New Archer” refer to Archer following the Business Combination.

Pursuant to the terms of the Business Combination Agreement, a business combination of Legacy Archer and Atlas was effected by the merger of Merger Sub with and into Legacy Archer, with Legacy Archer surviving the merger (the “Surviving Entity”) as a wholly-owned subsidiary of Atlas (the “Merger,” and, collectively with the other transactions described in the Business Combination Agreement, the “Business Combination”). Following the consummation of the Merger on the Closing Date, the Surviving Entity changed its name from Archer Aviation Inc. to Archer Aviation Operating Corp., and Atlas changed its name from Atlas Crest Investment Corp. to Archer Aviation Inc. and it became the successor registrant with the U.S. Securities and Exchange Commission (the “SEC”). Prior to the closing of the Business Combination, the Class A common stock and public warrants of Atlas were listed on the New York Stock Exchange (“NYSE”) under the symbols “ACIC” and “ACIC WS,” respectively. New Archer Class A common stock and public warrants are currently listed on the NYSE under the symbols “ACHR” and “ACHR WS,” respectively.

The financial statements included in this Quarterly Report on Form 10-Q reflect (i) the historical operating results of Legacy Archer prior to the Business Combination; (ii) the combined results of Atlas and Legacy Archer following the closing of the Business Combination; (iii) the assets and liabilities of Legacy Archer at their historical cost; and (iv) the Company’s equity structure for all periods presented.

Archer Aviation Inc.
Notes to Consolidated Condensed Financial Statements (Unaudited)

COVID-19 Pandemic

In March 2020, the World Health Organization declared the outbreak of COVID-19 a global pandemic. The rapid spread of COVID-19 caused volatility and disruption in financial markets and prompted governments and businesses to take unprecedented measures such as travel restrictions, quarantines, shelter-in-place orders, and business shutdowns. The impact of the COVID-19 pandemic continues to evolve due to, among other reasons, the emergence of additional variants or strains of COVID-19. As such, the full magnitude of the pandemic's effect on the Company's financial condition, liquidity, and future results of operations is uncertain. Management continues to actively monitor the Company's financial condition, liquidity, operations, suppliers, industry, and workforce, but currently does not anticipate any material impairments as a result of COVID-19 and will continue to evaluate the impact of COVID-19 on an ongoing basis.

Note 2 - Liquidity and Going Concern

Since the Company's formation, the Company has devoted substantial effort and capital resources to the design and development of its planned eVTOL aircraft and UAM network. Funding of these activities has primarily been through the net proceeds received from the issuance of related and third-party debt (Note 6), and the sale of preferred and common stock to related and third parties (Note 8). Through March 31, 2022, the Company has incurred cumulative losses from operations, negative cash flows from operating activities, and has an accumulated deficit of \$432.8 million. Following the closing of the Business Combination on the Closing Date, the Company received net cash proceeds of \$801.8 million. Additionally, the Company had cash and cash equivalents of \$704.2 million as of March 31, 2022, which management believes will be sufficient to fund the Company's current operating plan for at least the next 12 months from the date these consolidated condensed financial statements were issued.

There can be no assurance that the Company will be successful in achieving its business plans, that the Company's current capital will be sufficient to support its ongoing business plans, or that any additional financing will be available in a timely manner or on acceptable terms, if at all. If the Company's business plans require it to raise additional capital, but the Company is unable to do so, it may be required to alter, or scale back its aircraft design, development and certification programs, as well as its manufacturing capabilities, or be unable to fund capital expenditures. Any such events would have a material adverse effect on the Company's financial position, results of operations, cash flows, and ability to achieve the Company's intended business plans.

Note 3 - Summary of Significant Accounting Policies**Basis of Presentation**

The accompanying unaudited consolidated condensed financial statements have been prepared pursuant to the rules and regulations of the SEC for interim financial information. Accordingly, they do not include all of the information and footnotes required by accounting principles generally accepted in the United States of America ("U.S. GAAP") for complete financial statements. In the opinion of management, all adjustments, consisting of normal recurring adjustments, necessary for a fair statement of financial position, results of operations, and cash flows for the interim periods presented have been reflected herein. The results of operations for interim periods are not necessarily indicative of the results to be expected for the full year. The unaudited consolidated condensed financial statements should be read in conjunction with the Company's audited consolidated financial statements as of and for the fiscal year ended December 31, 2021 set forth in the Company's Annual Report on Form 10-K. The December 31, 2021 consolidated condensed balance sheet was derived from audited financial statements, but does not include all disclosures required by U.S. GAAP.

The Company has provided a discussion of significant accounting policies, estimates, and judgments in the Company's audited consolidated financial statements. There have been no changes to the Company's significant accounting policies since December 31, 2021 which are expected to have a material impact on the Company's financial position, results of operations, or cash flows.

Retroactive Application of Reverse Recapitalization

The Business Combination was accounted for as a reverse recapitalization of equity structure. Pursuant to U.S. GAAP, the Company retrospectively recast its weighted-average outstanding shares within the Company's consolidated condensed statement of operations and comprehensive loss for the three months ended March 31, 2021. As part of the closing, all of

Archer Aviation Inc.
Notes to Consolidated Condensed Financial Statements (Unaudited)

Legacy Archer's issued Series Seed redeemable convertible preferred stock and Series A redeemable convertible preferred stock were converted into Legacy Archer common stock, which were converted again, along with all other issued and outstanding common stock of Legacy Archer, into New Archer Class A common stock and New Archer Class B common stock. The basic and diluted weighted-average Legacy Archer common stock were retroactively converted to New Archer Class A common stock and New Archer Class B common stock to conform to the recast in the consolidated condensed statements of stockholders' equity.

Cash, Cash Equivalents, and Restricted Cash

Cash consists of cash on deposit with financial institutions. Cash equivalents consist of short-term, highly liquid financial instruments that are readily convertible to cash and have maturities of three months or less from the date of purchase. The Company's cash and cash equivalents include money market funds of \$0.3 million as of each of March 31, 2022 and December 31, 2021. Money market funds, which are considered cash equivalents, are recorded at fair value and classified as Level 1 within the fair value hierarchy.

Restricted cash consists of cash held as security for the Company's standby letters of credit to support three of the Company's leased properties. Refer to Note 7 - Commitments and Contingencies for further details.

The following table provides a reconciliation of cash, cash equivalents, and restricted cash reported on the balance sheets that sum to amounts reported on the statements of cash flows:

	March 31, 2022	December 31, 2021
Cash and cash equivalents	\$ 704.2	\$ 746.6
Restricted cash	2.9	0.3
Total cash, cash equivalents, and restricted cash	<u>\$ 707.1</u>	<u>\$ 746.9</u>

Fair Value Measurements

The Company applies the provisions of Accounting Standards Codification ("ASC") 820, *Fair Value Measurement*, which defines a single authoritative definition of fair value, sets out a framework for measuring fair value and expands on required disclosures about fair value measurements. The provisions of ASC 820 relate to financial assets and liabilities as well as other assets and liabilities carried at fair value on a recurring and nonrecurring basis. The standard clarifies that fair value is an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or liability. As a basis for considering such assumptions, the standard establishes a three-tier value hierarchy, which prioritizes the inputs used in measuring fair value as follows:

Level 1 Unadjusted quoted prices in active markets for identical assets or liabilities accessible to the reporting entity at the measurement date.

Level 2 Other than quoted prices included in Level 1 inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the asset or liability.

Level 3 Unobservable inputs for the asset or liability used to measure fair value to the extent that observable inputs are not available, thereby allowing for situations in which there is little, if any, market activity for the asset or liability at the measurement date.

The carrying amounts of the Company's cash, accounts payable, accrued compensation, and accrued liabilities approximate fair value due to the short-term nature of these instruments. The following table presents information about the Company's assets and liabilities that are measured at fair value on a recurring basis as of March 31, 2022 and December 31, 2021 and indicates the fair value hierarchy of the valuation inputs the Company utilized to determine such fair value:

Archer Aviation Inc.
Notes to Consolidated Condensed Financial Statements (Unaudited)

Description	Level	March 31, 2022	December 31, 2021
(In millions)			
Assets:			
Money Market Funds	1	\$ 0.3	\$ 0.3
Liabilities:			
Warrant Liability – Public Warrants	1	\$ 15.9	\$ 20.2
Warrant Liability – Private Placement Warrants	3	\$ 7.9	\$ 10.1

Public Warrants

The measurement of the public warrants as of March 31, 2022 is classified as Level 1 due to the use of an observable market quote in an active market under the ticker “ACHR WS.” The quoted price of the public warrants was \$0.91 per warrant as of March 31, 2022.

Private Placement Warrants

The Company utilizes a Monte Carlo simulation model for the private placement warrants at each reporting period, with changes in fair value recognized in the statement of operations and comprehensive loss. The estimated fair value of the private placement warrant liability is determined using Level 3 inputs. Inherent in a binomial options pricing model and Monte Carlo simulation model are assumptions related to expected share-price volatility, expected life, risk-free interest rate, and dividend yield.

The key inputs into the Monte Carlo simulation model for the private placement warrants are as follows:

Input	March 31, 2022	December 31, 2021
Stock price	\$ 4.81	\$ 6.04
Strike price	\$ 11.50	\$ 11.50
Dividend yield	0.00 %	0.00 %
Term (in years)	4.46	4.71
Volatility	51.1 %	45.3 %
Risk-free rate	2.43 %	1.22 %

The following table presents the change in fair value of the Company’s Level 3 private placement warrants during the three months ended March 31, 2022 (in millions):

Balance as of December 31, 2021	\$ 10.1
Change in fair value	(2.2)
Balance as of March 31, 2022	<u>\$ 7.9</u>

The Company recognized a gain in connection with changes in the fair value of warrant liabilities of \$6.6 million within other income, net in the consolidated condensed statement of operations and comprehensive loss during the three months ended March 31, 2022. Refer to Note 12 - Liability Classified Warrants for additional information about the public and private placement warrants.

Financial Instruments Not Recorded at Fair Value on a Recurring Basis

Certain financial instruments, including debt, are not measured at fair value on a recurring basis in the balance sheets. The fair value of debt as of March 31, 2022 approximates its carrying value.

Archer Aviation Inc.
Notes to Consolidated Condensed Financial Statements (Unaudited)

Assets and Liabilities Recorded at Fair Value on a Non-Recurring Basis

Certain assets and liabilities are subject to measurement at fair value on a non-recurring basis if there are indicators of impairment or if they are deemed to be impaired as a result of an impairment review.

Intangible Assets, Net

Intangible assets consist solely of domain names and are recorded at cost, net of accumulated amortization, and if applicable, impairment charges. Amortization of domain names is provided over a 15-year estimated useful life on a straight-line basis or based on the pattern in which economic benefits are consumed, if reliably determinable. The Company reviews intangible assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. The Company has analyzed a variety of factors in light of the known impact to date of the COVID-19 pandemic on the Company's business to determine if any circumstance could trigger an impairment loss, and, at this time and based on the information presently known, do not believe that it is more likely than not that an impairment loss has been incurred.

As of March 31, 2022 and December 31, 2021, the net carrying amounts for domain names were \$0.4 million and \$0.5 million recorded in the Company's consolidated condensed balance sheets, respectively.

Net Loss Per Share

Basic net loss per share is calculated by dividing net loss attributable to common stockholders by the weighted-average number of common shares outstanding. For all periods presented, the calculation of basic net loss per share excludes shares issued upon the early exercise of stock options where the vesting conditions have not been satisfied.

Because the Company reported net losses for all periods presented, diluted loss per share is the same as basic loss per share.

Contingently issuable shares, including equity awards with performance conditions, are considered outstanding common shares and included in basic net loss per share as of the date that all necessary conditions to earn the awards have been satisfied. Prior to the end of the contingency period, the number of contingently issuable shares included in diluted net loss per share is based on the number of shares, if any, that would be issuable under the terms of the arrangement at the end of the reporting period.

Because the Company reported net losses for all periods presented, all potentially dilutive common stock equivalents are antidilutive and have been excluded from the calculation of net loss per share. The diluted net loss per common share was the same for Class A and Class B common shares because they are entitled to the same liquidation and dividend rights.

The following table presents the number of antidilutive shares excluded from the calculation of diluted net loss per share:

	Three Months Ended March 31,	
	2022	2021
Options to purchase common stock	8,604,636	11,899,579
Unvested restricted stock units	38,662,368	285,361
Warrants	32,268,677	10,282,292
Series Seed redeemable convertible preferred stock	—	18,193,515
Series A redeemable convertible preferred stock	—	46,267,422
Total	79,535,681	86,928,169

Comprehensive Loss

There were no differences between net loss and comprehensive loss presented in the consolidated condensed statements of operations and comprehensive loss for the three months ended March 31, 2022 and 2021.

Archer Aviation Inc.
Notes to Consolidated Condensed Financial Statements (Unaudited)

Recent Accounting Pronouncements

Recently Issued Accounting Pronouncements Not Yet Adopted

In August 2020, the Financial Accounting Standards Board (“FASB”) issued ASU 2020-06, *Accounting for Convertible Instruments and Contracts in an Entity’s Own Equity*. The ASU simplifies the accounting for convertible instruments by removing certain separation models in ASC 470-20, *Debt—Debt with Conversion and Other Options*, for convertible instruments. The ASU updates the guidance on certain embedded conversion features that are not required to be accounted for as derivatives under Topic 815, *Derivatives and Hedging*, or that do not result in substantial premiums accounted for as paid-in capital, such that those features are no longer required to be separated from the host contract. The convertible debt instruments will be accounted for as a single liability measured at amortized cost. Further, the ASU made amendments to the EPS guidance in Topic 260 for convertible instruments, the most significant impact of which is requiring the use of the if-converted method for diluted EPS calculation, and no longer allowing the net share settlement method. The ASU also made revisions to Topic 815-40, which provides guidance on how an entity must determine whether a contract qualifies for a scope exception from derivative accounting. The amendments to Topic 815-40 change the scope of contracts that are recognized as assets or liabilities. The ASU is effective for public business entities, excluding smaller reporting companies, for interim and annual periods beginning after December 15, 2021, with early adoption permitted. For all other entities, the amendments are effective for interim and annual periods beginning after December 15, 2023. Adoption of the ASU can either be on a modified retrospective or full retrospective basis. The Company is currently evaluating the impact the adoption of this standard will have on its financial statements and related disclosures.

No other recently issued accounting pronouncements had or are expected to have a material impact on the Company’s financial statements.

Note 4 - Property and Equipment, Net

Property and equipment, net, consisted of the following (in millions):

	March 31, 2022	December 31, 2021
Furniture, fixtures, and equipment	\$ 3.0	\$ 2.8
Computer hardware	2.8	2.5
Computer software	0.5	0.5
Website design	0.5	0.5
Leasehold improvements	1.0	1.0
Construction in progress	0.1	—
Total property and equipment	7.9	7.3
Less: Accumulated depreciation	(2.0)	(1.4)
Total property and equipment, net	\$ 5.9	\$ 5.9

The following table presents depreciation expense included in each respective expense category in the consolidated condensed statements of operations and comprehensive loss (in millions):

	Three Months Ended March 31, 2022	2021
Research and development	\$ 0.4	\$ 0.1
General and administrative	0.2	0.1
Total depreciation expense	\$ 0.6	\$ 0.2

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Note 5 - Accrued Expenses and Other Current Liabilities

Accrued expenses and other current liabilities consisted of the following (in millions):

	March 31, 2022	December 31, 2021
Accrued professional fees	\$ 13.7	\$ 6.9
Accrued employee costs	4.0	2.6
Accrued parts and materials	0.1	0.9
Taxes payable	0.6	0.6
Accrued capital expenditures	0.1	0.4
Accrued marketing fees	0.1	0.3
Other current liabilities	0.8	0.6
Total	<u>\$ 19.4</u>	<u>\$ 12.3</u>

Note 6 - Notes Payable

Long-term notes payable consisted of the following (in millions):

	March 31, 2022	December 31, 2021
Silicon Valley Bank (“SVB”) Term Loans	\$ 17.5	\$ 20.0
Term Loans unamortized discount and loan issuance costs	(1.0)	(1.2)
Total debt, net of discount and loan issuance costs	16.5	18.8
Less current portion, net of discount and loan issuance costs	(9.5)	(9.5)
Total long-term notes payable, net of discount and loan issuance costs	<u>\$ 7.0</u>	<u>\$ 9.3</u>

SVB Loan

On July 9, 2021, the Company, as the borrower, entered into a Loan and Security Agreement with SVB and SVB Innovation Credit Fund VIII, L.P. (“SVB Innovation”) as the lenders, and SVB as the collateral agent. The total principal amount of the loans is \$20 million (the “Term Loans”), and all obligations due under the Term Loans are collateralized by all of the Company’s right, title, and interest in and to its specified personal property in favor of the collateral agent. The Term Loans include events of default and covenant provisions, whereby accelerated repayment may result if the Company were to default. On January 1, 2022, the Company began repaying the Term Loans, which are payable in 24 equal monthly installments, including principal and interest. The interest rate on the loans is a floating rate per annum equal to the greater of (i) 8.5% and (ii) the Prime Rate plus the Prime Rate Margin (each as defined in the Loan and Security Agreement), which increases by 2% per annum upon the occurrence of an event of default. For the three months ended March 31, 2022, the Company recognized interest expense of \$0.4 million.

Additionally, in conjunction with the issuance of the Term Loans, the Company issued 366,140 warrants to SVB and 366,140 warrants to SVB Innovation, totaling 732,280 warrants. The Company issued the warrants to the lenders as consideration for entering into the Term Loans, representing a loan issuance fee. Each warrant provides SVB and SVB Innovation with the right to purchase one share of the Company’s Class A common stock. The Company recorded the warrants as liabilities at their fair value and adjust the warrants to fair value at each reporting period. This liability is subject to remeasurement at each balance sheet date until exercised, and any change in fair value is recognized as a gain or loss in the Company’s consolidated condensed statements of operations and comprehensive loss. The initial offsetting entry to the warrant liability was a debt discount recorded to reflect the loan issuance fee. See Note 12 - Liability Classified Warrants for further details.

Upon the closing of the Business Combination, the SVB warrants became public warrants. The subsequent measurement of the SVB warrants as of March 31, 2022 is classified as Level 1 due to the use of an observable market quote in an active market under the ticker “ACHR WS.” The quoted price of the public warrants was \$0.91 as of March 31, 2022.

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During the three months ended March 31, 2022, the Company recognized interest expense of \$0.2 million related to the amortization of the discount and issuance costs. The unamortized balance of the discount and issuance costs was \$1.0 million as of March 31, 2022.

The future scheduled principal maturities of notes payable as of March 31, 2022 are as follows (in millions):

Remaining 2022	\$	7.5
2023		10.0
	\$	17.5

Note 7 - Commitments and Contingencies

Operating Leases

The Company leases office, lab, hangar, and storage facilities under various operating lease agreements with lease periods expiring between 2022 and 2026 and generally containing periodic rent increases and various renewal and termination options.

On January 14, 2022, the Company entered into a sublease agreement with Forescout Technologies, Inc. The sublease is for approximately 96,000 rentable square feet of building space in the building located at 190 West Tasman Drive, San Jose, California. The Company intends that the premises will become its corporate headquarters. The term of the sublease commenced on February 26, 2022 and will expire on October 31, 2026, with no right to extend. The Company is also responsible for certain other costs under the sublease, such as certain build-out expenses, operating expenses, taxes, assessments, insurance, and utilities.

On March 9, 2022, the Company entered into a lease agreement with SIR Properties Trust. The lease is for approximately 68,000 rentable square feet of building space in the building located at 77 Rio Robles, San Jose, California. The Company intends that the premises will be used for lab space and a low rate initial production facility. The term of the lease commences 210 days after the landlord delivers possession of the premises to the Company, subject to certain demolition work being completed, and will expire 90 months thereafter, with an option for the Company to extend the term for one additional five-year period. Base rent payments due under the lease are expected to be approximately \$15.0 million in the aggregate over the term of the lease. The Company is also responsible for certain other costs under the lease, such as certain build-out expenses, operating expenses, taxes, assessments, insurance, and utilities. However, the lease requires that the landlord shall provide the Company with an allowance that may be applied against certain of the Company's build-out and moving expenses. As of March 31, 2022, the lease has not commenced.

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The Company's lease costs were as follows (in millions):

	Three Months Ended March 31,	
	2022	2021
Operating lease cost	\$ 1.1	\$ 0.3

The Company's weighted-average remaining lease term and discount rate were as follows:

	Three Months Ended March 31,	
	2022	2021
Weighted-average remaining lease term (in months)	43	27
Weighted-average discount rate	11.36 %	11.39 %

The minimum aggregate future obligations under the Company's non-cancelable operating leases as of March 31, 2022 were as follows (in millions):

Remaining 2022	\$ 3.4
2023	3.8
2024	2.8
2025	2.9
2026	2.5
Total future lease payments	15.4
Less: imputed interest	(3.0)
Present value of future lease payments	\$ 12.4

Supplemental cash flow information and non-cash activities related to right-of-use assets and lease liabilities were as follows (in millions):

	Three Months Ended March 31,	
	2022	2021
Operating cash outflows from operating leases	\$ 0.9	\$ 0.3
Operating lease assets obtained in exchange for new lease liabilities	9.1	0.8

Letters of Credit

On February 23, 2022, in conjunction with the sublease the Company entered into for its new corporate headquarters, the Company entered into a standby letter of credit in the amount of \$1.5 million in favor of the lessor, to satisfy the security deposit or other obligations of the leased property. The standby letter of credit will be automatically reduced and renewed annually through February 1, 2026.

In addition, on March 31, 2022, in conjunction with the lease the Company entered into for its new lab space and low rate initial production facility, the Company entered into a standby letter of credit in the amount of \$1.2 million in favor of the lessor, to satisfy the security deposit of the leased property. The standby letter of credit automatically renews annually through September 28, 2030.

As of March 31, 2022, the Company had standby letters of credit in the aggregate outstanding amount of \$2.9 million, secured with restricted cash, to support three of the Company's leased properties.

Litigation

During the ordinary course of the business, the Company may be subject to legal proceedings, various claims, and litigation. Such proceedings can be costly, time consuming, and unpredictable, and therefore, no assurance can be given that the final outcome of such proceedings will not materially impact financial condition or results of operations.

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Wisk Litigation and Government Investigation

On April 6, 2021, Wisk Aero LLC (“Wisk”) brought a lawsuit against the Company in the United States District Court for the Northern District of California (the “District Court”) alleging misappropriation of trade secrets and patent infringement. The Company has filed certain counterclaims for defamation, tortious interference and unfair competition.

On May 19, 2021, Wisk filed a motion for preliminary injunction and expedited discovery. On June 23, 2021, the Company filed an opposition to the motion for preliminary injunction. On July 22, 2021, the District Court denied Wisk’s motion for preliminary injunction. On August 20, 2021, Wisk filed a notice of appeal of the District Court’s denial of the motion for preliminary injunction. On September 30, 2021, Wisk withdrew its notice of appeal of the District Court’s denial of the motion for preliminary injunction.

On January 19, 2022, the Company filed a motion for judgment on the pleadings to dismiss two of Wisk’s asserted patents as invalid, which the District Court granted on April 19, 2022. The District Court separately ordered Wisk to narrow its trade secret case to 10 of the 52 alleged trade secrets and its patent case to eight claims across all patents by September 1, 2022. A trial on Wisk’s claims and the Company’s counterclaims has been scheduled to begin on April 17, 2023.

On April 6, 2022, the Company brought a lawsuit against The Boeing Company (“Boeing”) in the Superior Court of California, County of Santa Clara (the “Superior Court”), asserting substantially the same claims set forth in the Company’s counterclaims against Wisk. On April 11, 2022, the Superior Court issued an order staying discovery and the responsive pleading deadline until after the case management conference set for August 2022.

The Company continues to strongly believe Wisk’s lawsuit is without merit. The Company will continue to vigorously defend itself against Wisk’s claims and pursue the Company’s counterclaims against Wisk and its claims against Boeing. Because these proceedings are still in the early stages, the Company cannot predict their outcome or impact on the Company and its business. As such, and in consideration of the above, the Company has concluded that a potential loss amount or a potential range of loss is not probable or reasonably estimable under ASC 450, *Contingencies*, and therefore has not accrued any amounts related to the award of damages or settlement of this matter with Wisk. Therefore, a negative result in these proceedings could have a material adverse effect on the Company’s financial position, liquidity, operations, and cash flows.

Prior to Wisk bringing the lawsuit against the Company, on March 30, 2021, one of the Company’s employees, who is a former employee of Wisk, had a search warrant executed at his home in connection with a federal investigation. The Company placed this former Wisk employee on paid administrative leave in connection with this government investigation. In relation to the same investigation, the Company and three of its employees, who are also former Wisk employees, received grand jury subpoenas from the United States Attorney’s Office for the Northern District of California. On January 28, 2022, the U.S. Attorney’s Office informed the Company that, based on its review, it decided not to bring charges against this employee and does not intend to continue its investigation.

Note 8 - Preferred and Common Stock

Preferred Stock

As of March 31, 2022, no shares of preferred stock were outstanding, and the Company has no present plans to issue any shares of preferred stock.

Class A and Class B Common Stock

Except for voting rights and conversion rights, or as otherwise required by applicable law, the shares of the Company’s Class A common stock and Class B common stock have the same powers, preferences, and rights and rank equally, share ratably and are identical in all respects as to all matters. The rights, privileges, and preferences are as follows:

Voting

Holders of the Company’s Class A common stock are entitled to one vote per share on all matters to be voted upon by the stockholders, and holders of Class B common stock are entitled to ten votes per share on all matters to be voted upon by the stockholders. The holders of Class A common stock and Class B common stock will generally vote together as a single class on

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all matters submitted to a vote of the stockholders, unless otherwise required by Delaware law or the Company's amended and restated certificate of incorporation.

Dividends

Holders of Class A common stock and Class B common stock are entitled to receive such dividends, if any, as may be declared from time to time by the Company's board of directors in its discretion out of funds legally available therefor. No dividends on common stock have been declared by the Company's board of directors through March 31, 2022, and the Company does not expect to pay dividends in the foreseeable future.

Preemptive Rights

Stockholders have no preemptive or other subscription rights and there are no sinking fund or redemption provisions applicable to Class A common stock and Class B common stock.

Conversion

Each share of Class B common stock is convertible at any time at the option of the holder into one share of Class A common stock. In addition, each share of Class B common stock will automatically convert into one share of Class A common stock upon transfer to a non-authorized holder. In addition, Class B common stock is subject to "sunset" provisions, under which all shares of Class B common stock will automatically convert into an equal number of shares of Class A common stock upon the earliest to occur of (i) the ten-year anniversary of the closing of the Business Combination, (ii) the date specified by the holders of two-thirds of the then outstanding Class B common stock, voting as a separate class, and (iii) when the number of Class B common stock represents less than 10% of the aggregate number of Class A common stock and Class B common stock then outstanding. In addition, each share of Class B common stock will automatically convert into an equal number of Class A common stock upon the earliest to occur of (a) in the case of a founder of the Company, the date that is nine months following the death or incapacity of such founder, and, in the case of any other holder, the date of the death or incapacity of such holder, (b) in the case of a founder of the Company, the date that is 12 months following the date that such founder ceases to provide services to the Company and its subsidiaries as an executive officer, employee or director of the Company, and, in the case of any other holder, immediately at the occurrence of any such event, and (c) in the case of a founder of the Company or any other holder, at least 80% (subject to customary capitalization adjustments) of the Class B common stock held by such founder or holder (on a fully as converted/as exercised basis) as of immediately following the closing of the Business Combination having been transferred (subject to exceptions for certain permitted transfers).

During the three months ended March 31, 2022, 1,757,980 shares of Class B common stock were converted into Class A common stock.

Liquidation

In the event of the Company's voluntary or involuntary liquidation, dissolution, distribution of assets or winding-up, subject to preferences that may apply to any shares of preferred stock outstanding at the time, the holders of the Company's common stock will be entitled to receive an equal amount per share of all of the Company's assets of whatever kind available for distribution to stockholders, after the rights of the holders of any preferred stock have been satisfied.

Note 9 - Stock-Based Compensation

2021 Plan

In August 2021, the Company adopted the 2021 Equity Incentive Plan (the "2021 Plan"), which was approved by the stockholders of the Company in September 2021 and became effective immediately upon the closing of the Business Combination. The 2021 Plan provides for the grant of incentive and non-statutory stock options, stock appreciation rights, restricted stock awards, restricted stock units, performance awards, and other awards to employees, directors, and non-employees. Initially, the aggregate number of shares of Class A common stock that may be issued under the plan will not exceed 7,453,588 shares. In addition, the number of shares of Class A common stock reserved for issuance under the 2021 Plan will automatically increase on January 1st of each year, starting on January 1, 2022 and ending on December 31, 2030, in an amount equal to the lesser of (1) 2.0% of the total number of shares of Class A common stock outstanding on December 31 of the preceding year, or (2) a lesser number of Class A common stock determined by the board of directors prior to the date of the

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increase. In accordance therewith, the number of shares of Class A common stock reserved for issuance under the 2021 Plan increased by 3,255,791 shares on January 1, 2022.

In connection with the adoption of the 2021 Plan, the Company ceased issuing awards under its 2019 Equity Incentive Plan (the “2019 Plan”). Following the closing of the Business Combination, the Company assumed the outstanding stock options under the 2019 Plan and converted such stock options into options to purchase the Company’s common stock. Such stock options will continue to be governed by the terms of the 2019 Plan and the stock option agreements thereunder, until such outstanding options are exercised or until they terminate or expire.

Employee Stock Purchase Plan

In August 2021, the Company adopted the 2021 Employee Stock Purchase Plan (the “ESPP”), which became effective immediately upon the closing of the Business Combination. The ESPP permits eligible employees to purchase shares of Class A common stock at a price equal to 85% of the lower of the fair market value of Class A common stock on the first day of an offering or on the date of purchase. The maximum number of shares of Class A common stock that may be issued under the ESPP will not exceed 4,969,059 shares. Additionally, the number of shares of Class A common stock reserved for issuance under the ESPP will automatically increase on January 1st of each year, beginning on January 1, 2022 and continuing through and including January 1, 2031, by the lesser of (i) 1.0% of the total number of shares of Class A common stock outstanding on December 31st of the preceding calendar year; (ii) 9,938,118 shares of Class A common stock; or (iii) such lesser number of shares of the Company as determined by the board of directors. In accordance therewith, the number of shares of Class A common stock reserved for issuance under the ESPP increased by 1,627,895 on January 1, 2022. As of March 31, 2022, there have been no purchases under the ESPP, and therefore, no shares have been issued.

Quarterly Equity Awards

Subject to the achievement of certain performance goals established by the Company from time to time, the Company’s employees are eligible to receive an annual incentive bonus that will entitle them to a quarterly grant of a number of restricted stock units (“RSUs”) determined by dividing 25% of the annual bonus target amount by the closing price of the Company’s Class A common stock on the date of grant. The RSUs will be fully vested on the date of grant. Furthermore, all the quarterly equity awards are contingent and issued only upon approval by the Company’s board of directors. During the three months ended March 31, 2022, the Company recognized stock-based compensation expense of \$1.8 million related to these quarterly equity awards, which are expected to be granted in the subsequent fiscal quarter.

Stock Options

A summary of the Company’s stock option activity is as follows:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (Years)	Aggregate Intrinsic Value (In millions)
Outstanding as of January 1, 2022	9,444,221	\$ 0.12	8.66	\$ 55.9
Exercised	(753,261)	0.12		2.7
Expired/forfeited	(86,324)	0.13		
Outstanding as of March 31, 2022	8,604,636	0.12	8.41	40.4
Exercisable as of March 31, 2022	952,603	0.12	8.30	4.5
Vested and expected to vest as of March 31, 2022	8,604,636	0.12	8.41	40.4

The Company recognized stock-based compensation expense of \$1.0 million and \$0.9 million for stock options for the three months ended March 31, 2022 and 2021, respectively.

As of March 31, 2022, the total remaining stock-based compensation expense for unvested stock options was \$12.7 million, which is expected to be recognized over a weighted-average period of 1.3 years.

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Restricted Stock Units

A summary of the Company's RSU activity is as follows:

	Number of Shares	Weighted Average Grant Price
Outstanding as of January 1, 2022	36,249,396	\$ 6.53
Granted	1,462,209	3.06
Vested	(300,014)	5.07
Forfeited	(624,223)	7.19
Outstanding as of March 31, 2022	<u>36,787,368</u>	<u>6.39</u>

In February 2022, the Company granted 1,462,209 RSUs under the 2021 Plan. The RSUs generally vest over a three- or four-year period with a straight-line vesting and a 33% or 25% one-year cliff and remain subject to forfeiture if vesting conditions are not met. Upon vesting, RSUs are settled in Class A common stock on a one-for-one basis. The shares of Class A common stock underlying RSU grants are not issued and outstanding until the applicable vesting date.

Immediately prior to closing of the Business Combination, each of the Company's founders was granted 20,009,224 RSUs under the 2019 Plan pursuant to the terms and conditions of the Business Combination Agreement (the "Founder Grants"). Considering each of the founder's existing equity ownership and assuming the Founder Grants fully vest, it would result in each of the founders owning approximately 18% of all outstanding shares of the Total Outstanding Capitalization of the Company (as defined in the Business Combination Agreement). One-quarter of each Founder Grant vests upon the achievement of the earlier to occur of (i) a price-based milestone or (ii) a performance-based milestone, with a different set of such price and performance-based milestones applying to each quarter of each Founder Grant and so long as the achievement occurs within seven years following the closing of the Business Combination.

The Company accounts for the Founder Grants as four separate tranches, with each tranche consisting of two award grants, a performance award grant and market award grant. Each tranche vests when either the market condition or performance condition is satisfied (only one condition is satisfied). The Company determined the fair value of the performance award by utilizing the trading price on the Closing Date. When the applicable performance milestone is deemed probable of being achieved, the Company will recognize compensation expense for the portion earned to date over the requisite period. For the market award, the Company determined both the fair value and derived service period using a Monte Carlo simulation model on the Closing Date. The Company will recognize compensation expense for the market award on a straight-line basis over the derived service period. If the applicable performance condition is not probable of being achieved, compensation cost for the value of the award incorporating the market condition is recognized, so long as the requisite service is provided. If the performance milestone becomes probable of being achieved, the full fair value of the award will be recognized, and any remaining expense for the market award will be canceled.

One-quarter of each Founder Grant, totaling 5,002,306 shares each of Class B common stock, vested immediately prior to the Closing Date pursuant to the terms and conditions of the Business Combination Agreement. During the three months ended March 31, 2022, the Company recorded \$16.0 million of expense for the amortized portion of the market award for the remaining three tranches in general and administrative expenses in the consolidated condensed statements of operations and comprehensive loss.

For the three months ended March 31, 2022 and 2021, the Company recorded \$5.7 million and less than \$0.1 million of stock-based compensation expense, respectively, related to RSU awards.

As of March 31, 2022, the total remaining stock-based compensation expense for unvested RSUs was \$300.1 million, which is expected to be recognized over a weighted-average period of 2.3 years.

The Company records stock-based compensation expense for stock-based compensation awards based on the fair value on the date of grant. The stock-based compensation expense is recognized ratably over the course of the requisite service period.

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The Company has elected to account for forfeitures as they occur and will record stock-based compensation expense assuming all stockholders will complete the requisite service period. If an employee forfeits an award because they fail to complete the requisite service period, the Company will reverse stock-based compensation expense previously recognized in the period the award is forfeited.

The following table presents stock-based compensation expense included in each respective expense category in the statements of operations and comprehensive loss (in millions):

	Three Months Ended March 31,	
	2022	2021
Research and development	\$ 5.4	\$ 0.7
General and administrative	19.1	0.2
Total stock-based compensation expense	\$ 24.5	\$ 0.9

Warrants

A summary of the Company's warrant activity is as follows:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (Years)	Aggregate Intrinsic Value (In millions)
Outstanding as of January 1, 2022	8,644,932	\$ 0.01	8.87	\$ 52.1
Issued	—	—	—	—
Exercised	—	—	—	—
Outstanding as of March 31, 2022	8,644,932	0.01	8.87	52.1
Vested and exercisable as of March 31, 2022	1,775,202	\$ 0.01	3.82	\$ 8.5

United Airlines

On January 29, 2021, the Company entered into a Purchase Agreement (the "Purchase Agreement"), Collaboration Agreement (the "United Collaboration Agreement"), and Warrant Agreement with United Airlines, Inc. ("United"). Under the terms of the Purchase Agreement, United has a conditional purchase order for up to 200 of the Company's aircraft, with an option to purchase an additional 100 aircraft. Those purchases are conditioned upon the Company meeting certain conditions that include, but are not limited to, the certification of the Company's aircraft by the FAA and further negotiation and reaching of mutual agreement on certain material terms related to the purchases. The Company issued 14,741,764 warrants to United to purchase shares of the Company's Class A common stock. Each warrant provides United with the right to purchase one share of the Company's Class A common stock at an exercise price of \$0.01 per share. The warrants vest in four equal installments in accordance with the following milestones: the execution of the Purchase Agreement and the United Collaboration Agreement, the completion of the Business Combination, the certification of the aircraft by the FAA, and the initial sale of aircraft to United.

The Company accounts for the Purchase Agreement and the United Collaboration Agreement under ASC 606, *Revenue from Contracts with Customers*. The Company identified the sale of each aircraft ordered by United as a separate performance obligation in the contract. As the performance obligations have not been satisfied, the Company has not recognized any revenue as of March 31, 2022.

With respect to the four warrant vesting milestones outlined above, the Company accounts for them as consideration payable to a customer under ASC 606 related to the future purchase of aircraft by United. Pursuant to ASC 718, *Compensation — Stock Compensation*, the Company measured the grant date fair value of the warrants to be recognized upon the achievement of each of the four milestones and the vesting of the related warrants. The Company determined that the warrants will be classified as equity awards based on the criteria of ASC 480, *Distinguishing Liabilities from Equity* and ASC 718. For the first milestone, issuance of the warrants in conjunction with the execution of the Purchase Agreement and the United Collaboration

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Agreement, the Company recorded the grant date fair value of the respective warrant tranche at the vesting date upon satisfaction of the milestone, and the related costs were recorded in other warrant expense due to the absence of historical or probable future revenue. For the second milestone, the completion of the Business Combination transaction, the related costs were also recorded in other warrant expense due to the absence of historical or probable future revenue. For the third milestone, the certification of the aircraft by the FAA, the Company will assess whether it is probable that the award will vest at the end of every reporting period. If and when the award is deemed probable of vesting, the Company will begin capitalizing the grant date fair value of the associated warrants as an asset through the vesting date and subsequently amortize the asset as a reduction to revenue as it sells the new aircraft to United. For the fourth milestone, the sale of aircraft to United, the Company will record the cost associated with the vesting of each portion of warrants within this milestone as a reduction of the transaction price as revenue is recognized for each sale of the aircraft. During the three months ended March 31, 2022, no other warrant expense was recognized. During the three months ended March 31, 2021, the Company recorded \$78.2 million in other warrant expense in the consolidated condensed statements of operations and comprehensive loss related to the achievement of the first milestone. A total of 8,845,058 warrants vested from achievement of the first two milestones and were exercised during the fiscal year ended December 31, 2021.

FCA US LLC

On November 6, 2020, the Company entered into a Collaboration Agreement with FCA US LLC (“FCA”) (the “FCA Collaboration Agreement”), in which both parties agreed to work together to complete a series of fixed duration collaboration projects related to the Company’s ongoing efforts to design, develop, and bring up production capabilities for its aircraft. The Company issued a warrant to FCA on November 6, 2020, in which FCA has the right to purchase up to 1,671,202 shares of the Company’s Class A common stock at an exercise price of \$0.01 per share (subject to appropriate adjustment in the event of a stock dividend, stock split, combination, or other similar recapitalization). Shares under the warrant vest based on the completion of specific aircraft development milestones identified under the FCA Collaboration Agreement, which are expected to be achieved on a rolling basis through December 2022.

As the Company is currently in pre-revenue stage and is not generating any revenue from the FCA Collaboration Agreement, all costs incurred with third parties are recorded based on the nature of the cost incurred. The Company accounts for the warrant in accordance with the provisions of ASC 718. The Company will assess whether it is probable that the award will vest for each of the seven milestones at the end of every reporting period. If and when the award is deemed probable of vesting, the Company will recognize compensation expense for the portion of the grant determined probable of vesting on a straight-line basis over the duration of each milestone. If services had been provided by FCA prior to management determining the milestone is probable of being achieved, a cumulative catch-up adjustment will be recorded for services performed in prior periods. Costs incurred under the FCA Collaboration Agreement and warrant are associated with the design, development, and bring up of production for the Company’s aircraft. During the three months ended March 31, 2022 and 2021, the Company recorded less than \$0.1 million of R&D expense in each period in the consolidated condensed statements of operations and comprehensive loss related to the completion of certain milestones. As of March 31, 2022, a total of five milestones have been completed, amounting to 1,236,690 shares that have vested.

FCA Italy S.p.A.

On July 19, 2021, the Company entered into a Manufacturing Consulting Agreement with an affiliate of FCA, FCA Italy S.p.A. (“FCA Italy”) (the “Manufacturing Consulting Agreement”), in which both parties agreed to work together to complete a series of fixed duration projects to develop manufacturing and production processes in connection with the Company’s ongoing efforts to bring up production capabilities for its aircraft. In conjunction with the Manufacturing Consulting Agreement, the Company issued a warrant to FCA Italy, in which FCA Italy has the right to purchase up to 1,077,024 shares of the Company’s Class A common stock at an exercise price of \$0.01 per share. The shares underlying the warrant vest in two equal installments in accordance with two time-based milestones.

The Company accounts for the warrant in accordance with ASC 718. The Company recognized compensation cost for half of the shares that were fully vested upon execution of the Manufacturing Consulting Agreement. The Company will recognize compensation cost for the remaining half of the warrant as the related services are received from FCA Italy on a straight-line basis over the service period of 12 months. During the three months ended March 31, 2022, the Company recorded \$1.2 million of R&D expense in the consolidated condensed statements of operations and comprehensive loss related to services received during the period for the second milestone.

Archer Aviation Inc.
Notes to Consolidated Condensed Financial Statements (Unaudited)

Note 10 - Income Taxes

The Company recognized zero and less than \$0.1 million of income tax expense for the three months ended March 31, 2022 and 2021, respectively, resulting in an effective tax rate of 0%. The effective tax rate is different from the federal statutory tax rate primarily due to a full valuation allowance against deferred tax assets.

In assessing the realizability of deferred tax assets, management considers whether it is more-likely-than-not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the period in which those temporary differences become deductible. Based upon the analysis of federal and state deferred tax balances, future tax projections, and the Company's lack of taxable income in the carryback period, the Company recorded a full valuation allowance against the federal and state deferred tax assets as of March 31, 2022 and 2021.

Note 11 - 401(k) Savings Plan

The Company maintains a 401(k) savings plan for the benefit of its employees. The Company makes matching contributions equal to 50% of each employee contribution, subject to the maximum amount established by the Internal Revenue Service. All current employees are eligible to participate in the 401(k) savings plan. The Company's matching contributions were approximately \$0.5 million and \$0.1 million for the three months ended March 31, 2022 and 2021, respectively.

Note 12 - Liability Classified Warrants

As of March 31, 2022, there were 17,398,947 public warrants outstanding. Public warrants may only be exercised for a whole number of shares. No fractional shares are issued upon exercise of the public warrants. The public warrants became exercisable on October 30, 2021, 12 months after the closing of the initial public offering of Atlas. The public warrants will expire five years from the consummation of the Business Combination or earlier upon redemption or liquidation.

Once the public warrants become exercisable, the Company may redeem the public warrants for redemption:

- in whole and not in part;
- at a price of \$0.01 per public warrant;
- upon not less than 30 days' prior written notice of redemption to each warrant holder; and
- if, and only if, the closing price of the Class A common stock equals or exceeds \$18.00 per share (as adjusted for stock splits, stock dividends, reorganizations, recapitalizations and the like) for any 20 trading days within a 30-trading day period commencing after the warrants become exercisable and ending three business days before the Company sends the notice of redemption to the warrant holders.

If and when the warrants become redeemable by the Company, the Company may exercise its redemption right even if the Company is unable to register or qualify the underlying securities for sale under all applicable state securities laws.

Each public warrant entitles the registered holder to purchase one share of Class A common stock at a price of \$11.50 per share. The exercise price and number of Class A common stock issuable upon exercise of the public warrants may be adjusted in certain circumstances including in the event of a share dividend, extraordinary dividend or recapitalization, reorganization, merger or consolidation. The public warrants will not be adjusted for issuances of Class A common stock at a price below its exercise price. Additionally, in no event will the Company be required to net cash settle the public warrants.

As of March 31, 2022, there were 8,000,000 private placement warrants outstanding. The private placement warrants are identical to the public warrants underlying the shares sold in the initial public offering of Atlas, except that the private placement warrants and the shares of Class A common stock issuable upon the exercise of the private placement warrants became transferable, assignable, and salable on October 16, 2021, 30 days after the completion of the Business Combination, subject to certain limited exceptions. Additionally, the private placement warrants will be exercisable on a cashless basis and will be non-redeemable so long as they are held by the initial purchasers or their permitted transferees. If the private placement

Archer Aviation Inc.
Notes to Consolidated Condensed Financial Statements (Unaudited)

warrants are held by someone other than the initial purchasers or their permitted transferees, the private placement warrants will be redeemable by the Company and exercisable by such holders on the same basis as the public warrants.

Note 13 - Subsequent Events

On April 18, 2022, the Company announced a leadership transition to a sole CEO, which it believes will help simplify its operating structure, and appointed Adam Goldstein to that role. Brett Adcock's service as the Company's Co-CEO ended effective April 13, 2022 (the "Separation Date"). Mr. Adcock and the Company have entered into a separation agreement (the "Separation Agreement"), dated April 28, 2022, pursuant to which Mr. Adcock agreed to a customary general release and waiver of claims, a covenant not to sue the Company, and a twelve month lock-up period related to the transfer of any capital stock (or securities convertible into capital stock) of the Company, subject to a limited exception to (i) sell a limited portion of his holdings in each of the third and fourth quarters of 2022 and the first quarter of 2023 and (ii) transfer shares in connection with the payment of taxes associated with the settlement of shares underlying the Founder Grant (as defined in Note 9 - Stock-Based Compensation). The Separation Agreement entitles Mr. Adcock to receive certain severance benefits after the Separation Date, including but not limited to: (i) salary continuation payments based on his current salary of \$600,000 for a period of twenty-four months, less standard payroll deductions and tax withholdings; (ii) an additional cash bonus severance payment equal to \$600,000, which equals two times the amount of Mr. Adcock's target annual bonus for 2022; (iii) a cash severance payment with respect to COBRA premiums equal to \$64,602.48; (iv) twenty-four months of accelerated vesting of Mr. Adcock's unvested shares subject to time-based equity awards (excluding the Founder Grant); (v) eligibility for continued vesting upon the achievement of certain milestones of the Founder Grant that will remain outstanding for fifteen months following the Separation Date; and (vi) an additional payment equal to \$1,500,000.

On May 9, 2022, the Board of Directors of the Company received a letter from Mr. Adcock resigning as a director of the Company, effective immediately.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

This Quarterly Report includes forward-looking statements. These forward-looking statements are based on our current expectations and beliefs concerning future developments and their potential effects on us. There can be no assurance that future developments affecting us will be those that we have anticipated. See the section titled "Special Note Regarding Forward-Looking Statements" in this Quarterly Report. Our actual results could differ materially from such forward-looking statements. Factors that could cause or contribute to those differences include, but are not limited to, those set forth in Part II, Item 1A, "Risk Factors" in this Quarterly Report and Part I, Item 1A, "Risk Factors" in the Company's Annual Report. The following discussion should be read in conjunction with our financial statements and related notes thereto included elsewhere in this Quarterly Report and the audited financial statements as of and for the year ended December 31, 2021 set forth in our Annual Report.

Overview

Our mission is to advance the benefits of sustainable air mobility. Our goal is to move people throughout the world's cities in a quick, safe, sustainable, and cost-effective manner. To accomplish this goal, we are designing and developing an electric vertical takeoff and landing ("eVTOL") aircraft for use in future urban air mobility ("UAM") networks.

Our eVTOL aircraft will be fully electric and will emit zero carbon emissions during operations. The goal of our eVTOL aircraft design is to maximize safety while minimizing operating costs and noise. We look to accomplish that goal through the use of a distributed electric propulsion system with inherent redundancy and far fewer parts than a typical internal combustion propulsion system found in similarly sized aircraft or rotorcraft today. The reduced number of parts not only translates into fewer critical parts on the aircraft from a safety perspective, but will also significantly reduce the maintenance requirements versus internal combustion propulsion systems found in similarly sized aircraft and rotorcraft today.

We continue to work to optimize our eVTOL aircraft design for both manufacturing and certification by using advancements in key enabling technologies such as high-energy batteries, high-performance electric motors, an advanced fly-by-wire flight control system, and a lightweight and efficient aircraft structure.

The development of an eVTOL aircraft that meets our business requirements demands significant design and development efforts on all facets of the aircraft. We believe that by bringing together a mix of talent with eVTOL, traditional aerospace and automotive backgrounds we are building a team that will allow us to move through the design, development, and certification of our eVTOL aircraft with the Federal Aviation Administration ("FAA") in an efficient manner, thus allowing us to achieve our end goal of getting to commercialization as soon as possible.

Our Planned Lines of Business

Upon receipt of all necessary FAA certifications and any other government approvals necessary for us to manufacture and operate our aircraft, we intend to operate two complementary lines of business. Our core focus is direct-to-consumer ("Archer UAM") with our secondary focus being business-to-business ("Archer Direct").

Archer UAM

We plan to operate our own UAM ecosystem initially in select major U.S. cities, such as Los Angeles and Miami. Our UAM ecosystem will operate using our eVTOL aircraft, which is currently in development. We project that the cost to manufacture and operate our eVTOL aircraft will be such that it will be able to enter the UAM ride-sharing market at a price point that is competitive with ground-based ride sharing services today. We will continue to evaluate our go-to-market strategy based on, among other things, estimated demand, readiness of the required infrastructure, and the scale of our UAM aircraft fleet.

Archer Direct

We also plan to selectively sell a certain amount of our eVTOL aircraft to third parties. We have entered into a purchase agreement ("Purchase Agreement") with United Airlines, Inc. ("United") for the conditional purchase of up to \$1 billion worth of aircraft, with an option for another \$500 million worth of aircraft. We will look to determine the right mix of selling our eVTOL aircraft versus using them as part of our UAM ecosystem based on, among other factors, our capital needs, our volume of manufacturing, our ability to ramp Archer UAM operations, and the purchase demand from our Archer Direct customers.

To date, we have not generated any revenue from either of these planned categories, as we continue to design, develop, and seek the governmental approvals necessary to operate our eVTOL aircraft and Archer UAM. We will use the net proceeds from the Business Combination for the foreseeable future to continue to fund our efforts to bring our eVTOL aircraft to market. The amount and timing of any future capital requirements will depend on many factors, including the pace and results of the design and development of our aircraft and manufacturing operations, as well as our progress in obtaining necessary FAA certifications and other government approvals. For example, any significant delays in obtaining such FAA certifications and other government approvals will likely require us to raise additional capital above our existing cash on hand and delay our generation of revenues.

Business Combination

On September 16, 2021 (the “Closing Date”), Archer Aviation Inc., a Delaware corporation (prior to the closing of the Business Combination (as defined below), “Legacy Archer”), Atlas Crest Investment Corp., a Delaware corporation (“Atlas”), and Artemis Acquisition Sub Inc., a Delaware corporation and a direct, wholly-owned subsidiary of Atlas (“Merger Sub”), consummated the closing of the transactions contemplated by the Business Combination Agreement, dated February 10, 2021, as amended and restated on July 29, 2021, by and among Atlas, Legacy Archer and Merger Sub (the “Business Combination Agreement”), following approval at a special meeting of the stockholders of Atlas held on September 14, 2021 (the “Special Meeting”). Unless otherwise specified or unless the context otherwise requires, references herein to Legacy Archer refer to Archer prior to the Business Combination and references herein to “New Archer” refer to Archer following the Business Combination.

Pursuant to the terms of the Business Combination Agreement, a business combination of Legacy Archer and Atlas was effected by the merger of Merger Sub with and into Legacy Archer, with Legacy Archer surviving the merger (the “Surviving Entity”) as a wholly-owned subsidiary of Atlas (the “Merger,” and, collectively with the other transactions described in the Business Combination Agreement, the “Business Combination”). Following the consummation of the Merger on the Closing Date, the Surviving Entity changed its name from Archer Aviation Inc. to Archer Aviation Operating Corp., and Atlas changed its name from Atlas Crest Investment Corp. to Archer Aviation Inc. and it became the successor registrant with the Securities and Exchange Commission (the “SEC”). Prior to the closing of the Business Combination, Atlas’ Class A common stock and public warrants of Atlas were listed on the New York Stock Exchange (“NYSE”) under the symbols “ACIC” and “ACIC WS,” respectively. Our Class A common stock and public warrants are currently listed on the NYSE under the symbols “ACHR” and “ACHR WS,” respectively.

Impact of COVID-19

In March 2020, the World Health Organization declared the outbreak of COVID-19 a global pandemic. The rapid spread of COVID-19 caused volatility and disruption in financial markets and prompted governments and businesses to take unprecedented measures such as travel restrictions, quarantines, shelter-in-place orders, and business shutdowns. The impact of the COVID-19 pandemic continues to evolve due to, among other reasons, the emergence of additional variants or strains of COVID-19. As such, the full magnitude of the pandemic’s effect on our financial condition, liquidity, and future results of operations is uncertain. Management continues to actively monitor our financial condition, liquidity, operations, suppliers, industry, and workforce, but currently does not anticipate any material impairments as a result of COVID-19 and will continue to evaluate the impact of COVID-19 on an ongoing basis. See Part II, Item 1A, “Risk Factors” in this Quarterly Report and Part I, Item 1A, “Risk Factors” in our Annual Report for more information.

Components of Results of Operations

Revenue

We are still working to design, develop, certify, and bring up manufacturing of our eVTOL aircraft and thus have not generated any revenues from either of our planned lines of business. We do not expect to begin generating significant revenues until we are able to complete the design, development, certification, and bring up of manufacturing of our eVTOL aircraft.

Operating Expenses

Research and Development

Research and development activities represent a significant part of our business. Our research and development efforts focus on the design and development of our eVTOL aircraft, including certain of the systems that are used in it. As part of those activities, we continue to work closely with the FAA towards our goal of achieving certification of our eVTOL aircraft on an

efficient timeline. Research and development expenses consist primarily of personnel-related costs (including salaries, bonuses, benefits, and stock-based compensation) for employees focused on research and development activities, costs associated with developing and building prototype aircraft, associated facilities costs, and depreciation. We expect research and development expenses to increase significantly as we progress towards the certification and manufacturing of our eVTOL aircraft.

We cannot determine with certainty the timing, duration or the costs necessary to complete the design, development, certification, and manufacturing bring up of our eVTOL aircraft due to the inherently unpredictable nature of our research and development activities. Development timelines, the probability of success, and development costs may differ materially from expectations.

General and Administrative

General and administrative expenses consist primarily of personnel-related costs (including salaries, bonuses, benefits, and stock-based compensation) for employees associated with administrative services such as finance, legal, human resources, information technology, associated facilities costs, and depreciation. We expect our general and administrative expenses to increase in absolute dollars, primarily as a result of operating as a publicly-traded company, including expenses to comply with the rules and regulations applicable to publicly-traded companies, as well as additional expenses customary for a publicly-traded company, such as directors' and officers' liability insurance, director fees, and additional internal and external accounting and legal fees and expenses.

At this time, we are unable to estimate the costs of defending the ongoing Wisk Aero LLC ("Wisk") litigation or any potential settlement or award of damages related thereto and thus, we have not established any related reserves. For a description of our material pending legal proceedings, see Note 7 - Commitments and Contingencies of the notes to the consolidated condensed financial statements included in Part I, Item 1 of this Quarterly Report.

Other Warrant Expense

Other warrant expense consists entirely of non-cash expense related to the vesting of warrants issued in conjunction with the execution of the Purchase Agreement and the Warrant Agreement with United ("United Warrant Agreement").

Other Income, Net

Other income, net consists of miscellaneous income and expense items, including the change in fair value of our warrant liabilities.

Interest Expense, Net

Interest expense, net primarily consists of interest on notes payable, net of interest income from our money market accounts.

Results of Operations

The following table sets forth our consolidated condensed statements of operations for the periods indicated:

	Three Months Ended March 31,		Change \$	Change %
	2022	2021		
	(In millions)			
Operating expenses:				
Research and development ⁽¹⁾	\$ 27.5	\$ 10.1	\$ 17.4	172 %
General and administrative ⁽¹⁾	37.8	6.6	31.2	473 %
Other warrant expense	—	78.2	(78.2)	(100)%
Total operating expenses	65.3	94.9	(29.6)	(31)%
Loss from operations	(65.3)	(94.9)	29.6	(31)%
Other income, net	6.5	—	6.5	100 %
Interest expense, net	(0.4)	—	(0.4)	100 %
Loss before income taxes	(59.2)	(94.9)	35.7	(38)%
Net loss	\$ (59.2)	\$ (94.9)	\$ 35.7	(38)%

⁽¹⁾ Includes stock-based compensation expense as follows:

	Three Months Ended March 31,			
	2022	2021		
	(In millions)			
Research and development	\$ 5.4	\$ 0.7		
General and administrative	19.1	0.2		
Total stock-based compensation expense	\$ 24.5	\$ 0.9		

Comparison of the Three Months Ended March 31, 2022 and 2021

Research and Development

Research and development expenses increased by \$17.4 million, or 172%, for the three months ended March 31, 2022, compared to the same period ended March 31, 2021, as we invested in people and materials to advance our technology development. Specifically, the increase was primarily due to an increase of \$9.7 million in personnel-related expenses due to a significant increase in our workforce from the prior year period and an increase of \$4.7 million in stock-based compensation expense primarily related to new restricted stock units granted since the prior year period and 2022 quarterly bonus equity awards to be granted in the subsequent fiscal quarter. In addition, warrant expense increased by \$1.2 million related to compensation cost recognized for the warrants issued to FCA Italy S.p.A. under a manufacturing consulting agreement. See Note 9 - Stock-Based Compensation for further details on our stock-based compensation. The remainder of the increase was made up of other immaterial items.

General and Administrative

General and administrative expenses increased by \$31.2 million, or 473%, for the three months ended March 31, 2022, compared to the same period ended March 31, 2021, as we invested in people and infrastructure to support our growth and maturity as a public company. Specifically, the increase was primarily due to an increase of \$16.0 million in stock-based compensation expense related to the restricted stock units granted to our founders immediately prior to closing of the Business Combination pursuant to the terms and conditions of the Business Combination Agreement (the "Founder Grants"). In addition, professional service expenses increased by \$6.1 million, mainly due to legal fees and expenses, and personnel-related expenses increased by \$3.9 million due to a significant increase in our workforce from the prior year period. Furthermore, there was an increase of \$2.9 million in stock-based compensation expense primarily related to new restricted stock units granted since the prior year period and 2022 quarterly bonus equity awards to be granted in the subsequent fiscal quarter. See Note 9 - Stock-Based Compensation for further details on our stock-based compensation. The remainder of the increase was made up of other immaterial items.

Other Warrant Expense

During the three months ended March 31, 2021, we recognized \$78.2 million of non-cash expense related to the vesting of warrants associated with the execution of the Purchase Agreement and United Warrant Agreement, in satisfaction of the first milestone. There was no comparable activity during the three months ended March 31, 2022.

Other Income, Net

We recognized other income, net of \$6.5 million for the three months ended March 31, 2022, primarily due to a gain of \$6.6 million recorded from a change in fair value of our warrant liabilities (see Note 3 - Summary of Significant Accounting Policies). There was no comparable activity during the three months ended March 31, 2021.

Interest Expense, Net

Interest expense, net increased by \$0.4 million during the three months ended March 31, 2022, compared to the same period ended March 31, 2021, primarily due to interest expense recognized for the Silicon Valley Bank term loans we entered into in July 2021.

Liquidity and Capital Resources

As of March 31, 2022, our principal sources of liquidity were cash and cash equivalents of \$704.2 million. We have incurred net losses since our inception and to date have not generated any revenues. We expect to incur additional losses and higher operating expenses for the foreseeable future. We believe that our existing cash and cash equivalents will be sufficient for at least the next 12 months to meet our requirements and plans for cash, including meeting our working capital requirements and capital expenditure requirements.

In the long term, our ability to support our working capital and capital expenditure requirements will depend on many factors, including:

- the level of research and development expenses we incur as we continue to develop our eVTOL aircraft;
- capital expenditures needed to bring up our aircraft manufacturing capabilities, including for both the build out of our manufacturing facilities and component purchases necessary to build our aircraft;
- general and administrative expenses as we scale our operations; and
- sales, marketing and distribution expenses as we build, brand and market our eVTOL aircraft and UAM network.

The following includes our short-term and long-term material cash requirements from known contractual obligations as of March 31, 2022:

Notes Payable

We have short-term and long-term debt obligations of \$10.0 million and \$7.5 million, respectively. See Note 6 - Notes Payable to the consolidated condensed financial statements for further details on our debt.

Leases

We lease office, lab, hangar, and storage facilities in the normal course of business. Under our operating leases as noted in Note 7 - Commitments and Contingencies to the consolidated condensed financial statements, we have current obligations of \$4.8 million and long-term obligations of \$10.6 million.

Until such time as we can generate significant revenue from our business operations, we expect to finance our cash needs primarily through existing cash on hand.

Cash Flows

The following table summarizes our cash flows for the periods indicated:

	Three Months Ended March 31,			
	2022		2021	
	(In millions)			
Net cash used in operating activities	\$	(36.8)	\$	(12.0)
Net cash used in investing activities	\$	(0.6)	\$	(1.1)
Net cash used in financing activities	\$	(2.4)	\$	—

Cash Flows Used in Operating Activities

We continue to experience negative cash flows from operations as we are still working to design, develop, certify, and bring up manufacturing of our eVTOL aircraft and thus have not generated any revenues from either of our planned lines of business. Our cash flows from operating activities are significantly affected by our cash investments to support the growth of our research and development activities related to our eVTOL aircraft, as well as the general and administrative functions necessary to support those activities and operations as a publicly traded company. Our operating cash flows are also impacted by the working capital requirements to support growth and fluctuations in personnel-related expenditures, accounts payable, accrued interest and other current liabilities, and other current assets.

Net cash used in operating activities during the three months ended March 31, 2022 was \$36.8 million, resulting from a net loss of \$59.2 million, adjusted for non-cash items consisting primarily of \$24.5 million in stock-based compensation primarily related to the Founder Grants, partially offset by a gain of \$6.6 million due to a change in fair value of our warrant liabilities. The net cash provided by changes in our net operating assets and liabilities of \$1.6 million was primarily related to a \$5.3 million increase in accrued expenses and other current liabilities mainly due to legal fees and expenses, partially offset by a \$1.7 million increase in prepaid expenses, primarily due to prepaid research and development-related expenses and a \$1.6 million decrease in accounts payable due to timing of payments.

Net cash used in operating activities during the three months ended March 31, 2021 was \$12.0 million, resulting from a net loss of \$94.9 million, adjusted for non-cash items consisting primarily of \$78.2 million in other warrant expense related to the vesting of United warrants. The net cash provided by changes in our net operating assets and liabilities of \$3.3 million was primarily related to a \$3.7 million increase in accounts payable mainly due to the ramp up in our research and development activities.

Cash Flows Used in Investing Activities

Net cash used in investing activities during the three months ended March 31, 2022 and 2021 was \$0.6 million and \$1.1 million, respectively, driven by purchases of property and equipment within those respective periods.

Cash Flows Used in Financing Activities

Net cash used in financing activities during the three months ended March 31, 2022 was \$2.4 million, consisting of the repayment of the Silicon Valley Bank term loans for \$2.5 million, offset by \$0.1 million proceeds from the exercise of stock options. There was no cash provided by or used in financing activities during the three months ended March 31, 2021.

Critical Accounting Policies and Estimates

Our consolidated condensed financial statements and accompanying notes have been prepared in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”). The preparation of these consolidated condensed financial statements requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, and expenses, and related disclosures. We base our estimates on historical experience and on various other assumptions that we believe are reasonable under the circumstances. We evaluate our estimates and assumptions on an ongoing basis. Actual results may differ from these estimates. To the extent that there are material differences between these estimates and our actual results, our future financial statements will be affected.

For a discussion of our critical accounting policies and estimates, see “Critical Accounting Policies and Estimates” included under Part II, Item 7, “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in our Annual Report. There have been no material changes in our policies from those previously discussed in our Annual Report.

Recent Accounting Pronouncements

See Note 3 - Summary of Significant Accounting Policies to the consolidated condensed financial statements included elsewhere in this Quarterly Report for a discussion about accounting pronouncements recently adopted and recently issued not yet adopted.

Credit Risk

Financial instruments, which subjects us to concentrations of credit risk, consist primarily of cash, cash equivalents, and deposits. Our cash and cash equivalents are held at major financial institutions located in the United States of America. At times, cash account balances with any one financial institution may exceed Federal Deposit Insurance Corporation insurance limits (\$250 thousand per depositor per institution). Management believes the financial institutions that hold our cash and cash equivalents are financially sound and, accordingly, minimal credit risk exists with respect to cash and cash equivalents.

Emerging Growth Company and Smaller Reporting Company Status

Section 107(b) of the Jumpstart Our Business Startups Act of 2012 (“JOBS Act”) provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. Thus, an emerging growth company can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. Atlas initially elected, and now we have elected, to take advantage of the extended transition period to comply with new or revised accounting standards and to adopt certain of the reduced disclosure requirements available to emerging growth companies. As a result of the accounting standards election, we are not subject to the same implementation timeline for new or revised accounting standards as other public companies that are not emerging growth companies which may make comparison of our financials to those of other public companies more difficult.

We have also elected to take advantage of some of the reduced regulatory and reporting requirements of emerging growth companies pursuant to the JOBS Act so long as we qualify as an emerging growth company, including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404(b) of the Sarbanes-Oxley Act and exemptions from the requirements of holding non-binding advisory votes on executive compensation and golden parachute payments.

Additionally, we are a “smaller reporting company” as defined in Item 10(f)(1) of Regulation S-K. Smaller reporting companies may take advantage of certain reduced disclosure obligations, including, among other things, providing only two years of audited financial statements. We will remain a smaller reporting company until the last day of the fiscal year in which (1) the market value of our shares of common stock held by non-affiliates equals or exceeds \$250 million as of the end of that year’s second fiscal quarter, and (2) our annual revenues equaled or exceeded \$100 million during such completed fiscal year or the market value of our shares of common stock held by non-affiliates equals or exceeds \$700 million as of the end of that year’s second fiscal quarter.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

As a “smaller reporting company,” we are not required to provide disclosure under this item.

Item 4. Controls and Procedures

Limitations on Effectiveness of Controls and Procedures

In designing and evaluating our disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. In addition, the design of disclosure controls and procedures must reflect the fact that there are resource constraints and that management is required to apply judgment in evaluating the benefits of possible controls and procedures relative to their costs.

Evaluation of Disclosure Controls and Procedures

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated, as of the end of the

period covered by this Quarterly Report, the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”)) as required by paragraph (b) of Rule 13a-15 or Rule 15d-15 of the Exchange Act. Based on this evaluation and as a result of the material weaknesses described below, our Chief Executive Officer and Chief Financial Officer concluded that, as of March 31, 2022, our disclosure controls and procedures were not effective at the reasonable assurance level.

However, after giving full consideration to these material weaknesses, and the additional analyses and other procedures that we performed to ensure that our consolidated condensed financial statements included in this Quarterly Report were prepared in accordance with U.S. GAAP, our management has concluded that our consolidated condensed financial statements included in this Quarterly Report fairly present, in all material respects, our financial position, results of operations, and cash flows for the periods presented.

Material Weaknesses in Internal Control over Financial Reporting

A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of a company’s annual and interim financial statements will not be detected or prevented on a timely basis.

In connection with the preparation and audit of our financial statements, we identified certain control deficiencies in the design and operation of our internal control over financial reporting that constituted material weaknesses. The material weaknesses are:

- We did not design and maintain an effective control environment commensurate with our financial reporting requirements. We lack a sufficient number of trained professionals with (i) an appropriate level of accounting knowledge, training and experience to appropriately analyze, record and disclose accounting matters timely and accurately, and (ii) an appropriate level of knowledge and experience to establish effective processes and controls. Additionally, the limited personnel also resulted in an inability to consistently establish appropriate authorities and responsibilities in pursuit of financial reporting objectives, as demonstrated by, among other things, insufficient segregation of duties in our finance and accounting functions.

The material weakness in the control environment contributed to the following additional material weaknesses:

- We did not design and maintain an effective risk assessment process at a precise enough level to identify new and evolving risks of material misstatement in our financial statements. Specifically, changes to existing controls or the implementation of new controls have not been sufficient to respond to changes to the risks of material misstatement to financial reporting.
- We did not design and maintain formal accounting policies, procedures and controls to achieve complete, accurate and timely financial accounting, reporting and disclosures, including controls over the preparation and review of business performance reviews, account reconciliations and journal entries.
- We did not design and maintain effective controls over information technology (“IT”) general controls for information systems that are relevant to the preparation of our financial statements. Specifically, we did not design and maintain:
 - user access controls to ensure appropriate segregation of duties and that adequately restrict user and privileged access to financial applications, programs, and data to appropriate company personnel;
 - program change management controls to ensure that IT program and data changes affecting financial IT applications and underlying accounting records are identified, tested, authorized, and implemented appropriately; and
 - computer operations controls to ensure that data backups are authorized and monitored.

These material weaknesses resulted in immaterial audit adjustments to the research and development expense and property and equipment line items in our financial statements and related disclosures for the years ended December 31, 2020 and 2019, a revision to our condensed financial statements for the period ended March 31, 2021 to reclassify certain costs within operating expenses from research and development expense to other warrant expense, and immaterial audit adjustments to the general and administrative expense line item and within current liabilities in our consolidated financial statements and related disclosures for the year ended December 31, 2021. Additionally, each of these material weaknesses could result in a misstatement of

substantially all of our accounts or disclosures that would result in a material misstatement to the annual or interim financial statements that would not be prevented or detected.

Remediation Measures

We are taking the necessary steps to remediate the material weaknesses to comply with Section 404(a) of the Sarbanes-Oxley Act. Management, with the participation of the Audit Committee and the Board of Directors, is engaged in remedial activities to address the material weaknesses described above. Those remediation measures are ongoing and include the following:

- We have prepared a remediation plan for each of the material weaknesses and intend to train process owners, develop new controls, enhance existing controls, evaluate process adoption, and monitor results;
- We have recently hired a new Chief Financial Officer and have hired and plan to continue to hire additional accounting, human resources and payroll, and IT personnel to bolster our accounting and IT capabilities and capacity, and to establish and maintain our internal controls;
- We designed and continue to implement controls to formalize roles and review responsibilities that align with our team's skills and experience and designing and implementing formal controls over segregation of duties;
- We have engaged third-party professionals to assist management in designing and implementing a formal risk assessment process to identify and evaluate changes in our business and the impact on our internal controls;
- We are implementing formal processes, policies, and procedures supporting our financial close process, including establishing and reviewing thresholds for of business performance reviews, formalizing procedures over the review of financial statements, and creation of standard balance sheet reconciliation templates and journal entry controls; and
- We continue to design and implement IT general controls, including controls over the review and updating of user access rights and privileges and implementing more robust IT policies and procedures over change management, data backup authorization and computer operations.

We believe we are making progress toward achieving the effectiveness of our internal control over financial reporting and disclosure controls and procedures. The actions that we are taking are subject to ongoing senior management review, as well as Audit Committee oversight. We will not be able to conclude whether the steps we are taking will fully remediate these material weaknesses in our internal control over financial reporting until we have completed our remediation efforts and subsequent evaluation of their effectiveness. We may also conclude that additional measures may be required to remediate the material weaknesses in our internal control over financial reporting, which may necessitate additional implementation and evaluation time. We will continue to assess the effectiveness of our internal control over financial reporting and take steps to remediate the known material weaknesses expeditiously.

Changes in Internal Control Over Financial Reporting

We are taking actions to remediate the material weaknesses relating to our internal control over financial reporting. Except as otherwise described above, there were no changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the quarter ended March 31, 2022 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Part II - Other Information

Item 1. Legal Proceedings

For a description of our material pending legal proceedings, see Note 7 - Commitments and Contingencies of the notes to the consolidated condensed financial statements included in Part I, Item 1 of this Quarterly Report, which is incorporated herein by reference.

Item 1A. Risk Factors

Investing in our securities involves risks. Risk factors describing the major risks to our business can be found under Part I, Item 1A, “Risk Factors” in our Annual Report. The following risk factors supplement and, to the extent inconsistent, supersede the risk factors disclosed in Part I, Item 1A, “Risk Factors” in our Annual Report. You should consider carefully the risks and uncertainties described therein, together with all of the other information in this Quarterly Report, including Part I, Item 2, “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our consolidated condensed financial statements and related notes, before deciding whether to purchase any of our securities. Our business, results of operations, financial condition, and prospects could also be harmed by risks and uncertainties that are not presently known to us or that we currently believe are not material. If any of these risks actually occur, our business, results of operations, financial condition, and prospects could be materially and adversely affected. Unless otherwise indicated, references in these risk factors to our business being harmed will include harm to our business, reputation, brand, financial condition, results of operations, and prospects. In such event, the market price of our securities could decline, and you could lose all or part of your investment.

We may be adversely affected by the effects of inflation

Inflation has the potential to adversely affect our liquidity, business, financial condition and results of operations by increasing our overall cost structure. The existence of inflation in the economy has resulted in, and may continue to result in, higher interest rates and capital costs, supply shortages, increased costs of labor, components, manufacturing and shipping, as well as weakening exchange rates and other similar effects. As a result of inflation, we have experienced and may continue to experience cost increases. Although we may take measures to mitigate the effects of inflation, if these measures are not effective, our business, financial condition, results of operations and liquidity could be materially adversely affected. Even if such measures are effective, there could be a difference between the timing of when these beneficial actions impact our results of operations and when the cost of inflation is incurred.

Our future success depends on the continuing efforts of our key employees and on our ability to attract and retain highly skilled personnel and senior management.

Our future success depends, in part, on our ability to continue to attract and retain highly skilled personnel. In particular, we are highly dependent on the contributions of Adam Goldstein, our co-founder and CEO, as well as other members of our management team. The loss of any key personnel could make it more difficult to achieve the objectives in our business plans.

Although we have generally entered into employment offer letters with our key personnel, these agreements have no specific duration and provide for at-will employment, which means our key personnel may terminate their employment relationship with us at any time.

Compensation packages for highly skilled personnel has increased over time and will likely continue to increase, and competition for highly skilled employees is often intense, especially in the San Francisco Bay Area where we are located, and we may incur significant costs to attract and retain them. We may not be successful in attracting, integrating, or retaining qualified personnel to fulfill our current or future needs. We have, from time to time, experienced, and we expect to continue to experience, difficulty in hiring and retaining highly skilled employees with appropriate qualifications. In addition, job candidates and existing employees often consider the value of the equity awards they receive in connection with their employment. If the perceived value of our equity or equity awards declines, it may adversely affect our ability to retain highly skilled employees. If we fail to attract new personnel or fail to retain and motivate our current personnel, our business, operating results, financial condition and future growth prospects could be harmed.

The dual-class structure of our common stock has the effect of concentrating voting power with our co-founders, which limits an investor’s ability to influence the outcome of important transactions, including a change in control.

Shares of our Class B common stock have ten votes per share, while shares of our Class A common stock have one vote per share. Brett Adcock and Adam Goldstein, our co-founders, hold a substantial majority of the issued and outstanding shares of Class B common stock and, as a result, a substantial majority of the voting power of our capital stock on an outstanding basis and are able to control matters submitted to our stockholders for approval, including the election of directors, amendments of our organizational documents and any merger, consolidation, sale of all or substantially all of our assets or other major

corporate transactions. Messrs. Adcock and Goldstein may have interests that differ from other stockholders and may vote in a way which may be adverse to other stockholders or with which our other stockholders may disagree. This concentrated control may have the effect of delaying, preventing or deterring a change in control, could deprive our stockholders of an opportunity to receive a premium for their capital stock as part of a sale, and might ultimately affect the market price of our Class A common stock.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

Sales of Unregistered Securities

None.

Use of Proceeds

On October 30, 2020, Atlas consummated its initial public offering of 50,000,000 units. The units were sold at a price of \$10.00 per unit, generating total gross proceeds of \$500.0 million from the initial public offering. The securities sold in the offering were registered under the Securities Act on a registration statement on Form S-1 (No. 333-249289). The registration statement became effective on October 27, 2020.

Simultaneously with the consummation of the initial public offering, Atlas consummated the sale of 8,000,000 private placement warrants, at a price of \$1.50 per warrant, to the Sponsor, generating gross proceeds to Atlas of \$12.0 million. Such securities were issued pursuant to the exemption from registration contained in Section 4(a)(2) of the Securities Act.

Atlas incurred \$10.5 million in offering costs for its initial public offering including \$10.0 million of underwriting fees and \$0.5 million of other costs. Following the initial public offering and the sale of the private placement warrants, a total of \$500.0 million was deposited into the trust account for the purpose of effecting an initial business combination. As of August 5, 2021, the record date of the Business Combination, there was \$500.1 million held in the trust account. After deducting payments to existing Atlas unit holders of \$242.2 million in connection with their exercise of redemption rights, the remainder of the trust account totaling \$257.6 million is now held on our balance sheet to fund our operations and continued growth.

The Business Combination generated \$857.6 million in gross cash proceeds, inclusive of \$600.0 million in proceeds from the related private placement financing and \$257.6 million transferred from the trust account. Total direct and incremental transaction costs aggregated \$81.8 million, of which \$10.9 million were expensed as part of the Business Combination, \$55.8 million were recorded to APIC as equity issuance costs, and the remaining \$15.1 million was settled through the issuance of shares of our Class A common stock.

There has been no material change in the planned use of proceeds noted above from those disclosed in the final prospectus (File No. 333-254007), dated August 11, 2021, which was declared effective by the SEC on August 11, 2021.

Issuer Purchases of Equity Securities

None.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

None.

Item 6. Exhibits

Exhibit	Description
10.1†	Form of Change in Control and Severance Agreement
10.2††	Sublease Agreement, dated January 14, 2022, between Forescout Technologies, Inc. and Archer Aviation Inc.
10.3†	Separation Agreement, dated January 19, 2022, between Ben Lu and Archer Aviation Inc.
10.4†	Offer Letter, dated January 16, 2022, by and between Mark Mesler and Archer Aviation Inc.
10.5††	Lease Agreement, dated March 9, 2022, between SIR Properties Trust and Archer Aviation Inc.
31.1	Certification of Principal Executive Officer pursuant to Rules 13a-14(a) and 15d-14(a) under the Exchange Act, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certification of Principal Financial Officer pursuant to Rules 13a-14(a) and 15d-14(a) under the Exchange Act, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1*	Certification of Principal Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2*	Certification of Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS	Inline XBRL Instance Document
101.SCH	Inline XBRL Taxonomy Extension Schema Document
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)

* The certifications furnished in Exhibits 32.1 and 32.2 hereto are deemed to accompany this Quarterly Report and are not deemed “filed” for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of that section, nor shall they be deemed incorporated by reference into any filing under the Securities Act or the Exchange Act.

† Indicates management contract or compensatory plan or arrangement.

†† Certain of the exhibits and schedules to these exhibits have been omitted in accordance with Regulation S-K Item 601(a)(5). The registrant agrees to furnish a copy of all omitted exhibits and schedules to the SEC upon its request.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

ARCHER AVIATION INC.

May 12, 2022

By: /s/ Mark Mesler
Mark Mesler
Chief Financial Officer
(Principal Financial and Accounting Officer)

CHANGE IN CONTROL AND SEVERANCE AGREEMENT

This Change in Control and Severance Agreement (the “**Agreement**”) is entered into by and between [] (the “**Executive**”) and Archer Aviation Inc., a Delaware corporation (the “**Company**”), on [], 2022, and is effective as of [], 2022 (the “**Effective Date**”).

1. Term of Agreement.

Except to the extent renewed as set forth in this Section 1, this Agreement shall terminate upon the earlier of (x) the third (3rd) anniversary of the Effective Date (the “**Expiration Date**”) or (y) the date that Executive's employment with the Company terminates for a reason other than Executive's Qualifying Termination or CIC Qualifying Termination; *provided however*, if a definitive agreement relating to a Change in Control has been signed by the Company on or before the Expiration Date, then this Agreement shall remain in effect through the earlier of:

- (a) The date that Executive's employment with the Company terminates for a reason other than a Qualifying Termination or CIC Qualifying Termination, or
- (b) The date the Company has met all of its obligations under this Agreement following a termination of Executive's employment with the Company due to a Qualifying Termination or CIC Qualifying Termination.

This Agreement shall renew automatically and continue in effect for three (3) year periods measured from the initial Expiration Date, unless the Company provides Executive notice of non-renewal at least three (3) months prior to the date on which this Agreement would otherwise renew. For the avoidance of doubt, and notwithstanding anything to the contrary in Section 2 or 3 below, the Company's non-renewal of this Agreement shall not constitute a Qualifying Termination or CIC Qualifying Termination, as applicable.

2. Qualifying Termination. If Executive is subject to a Qualifying Termination, then, subject to Sections 4, 8, and 9 below, Executive will be entitled to the following benefits:

(a) **Severance Benefits.** The Company shall pay Executive (i) an amount equal to [12]¹[9]²[6]³ months' worth of his or her monthly base salary (at the rate in effect immediately prior to the actions that resulted in the Qualifying Termination) and (ii) pro-rata payment of Executive's then-current annual bonus to the extent earned, as determined by the Company's Board of Directors or Compensation Committee. Such severance payments under clause (i) will be paid in a cash lump-sum, in accordance with the Company's standard payroll procedures; provided, however, that the Executive will receive such payment on the first business day occurring after the sixtieth (60th) day following the Separation (*provided that* the Release Conditions have been satisfied). Such payment of the pro-rata target bonus under clause (ii) shall be paid in a cash lump sum when bonuses are paid to other executives to the Company, but in all cases not before the sixtieth (60th) day following the Separation or after March 15 of the calendar year following the Separation, *provided that*, the Release Conditions have been satisfied.

(b) **Continued Employee Benefits.** If Executive timely elects continued coverage under the Consolidated Omnibus Budget Reconciliation Act (“**COBRA**”), the Company shall pay the full amount of Executive's COBRA premiums on behalf of the Executive for the Executive's continued coverage under the Company's health, dental and vision plans, including coverage for the Executive's eligible dependents, for the same period that the Executive is paid severance benefits pursuant to Section 2(a) following the Executive's Separation. Notwithstanding the foregoing, if the Company, in its sole discretion, determines that it cannot provide the foregoing subsidy of COBRA coverage without potentially violating or causing the Company to incur additional expense as a result of noncompliance with applicable law

¹ For C-levels.

² For SVPs.

³ For VPs.

(including, without limitation, Section 2716 of the Public Health Service Act), the Company instead shall provide to Executive a taxable monthly payment in an amount equal to the monthly COBRA premium that Executive would be required to pay to continue the group health coverage in effect on the date of the Separation (which amount shall be based on the premium for the first month of COBRA coverage), which payments shall be made regardless of whether Executive elects COBRA continuation coverage and shall commence on the later of (i) the first day of the month following the month in which Executive experiences a Separation and (ii) the effective date of the Company's determination of violation of applicable law, and shall end on the last day of the period that the Executive is paid severance benefits pursuant to Section 2(a) after the Separation, provided that, any taxable payments under Section 2(b) will not be paid before the first business day occurring after the sixtieth (60th) day following the Separation and, once they commence, will include any unpaid amounts accrued from the date of Executive's Separation (to the extent not otherwise satisfied with continuation coverage). Executive shall have no right to an additional gross-up payment to account for the fact that such COBRA premium amounts are paid on an after-tax basis.

(c) **[Equity]**. The vesting of each of Executive's then outstanding Equity Awards, excluding awards that would otherwise vest contingent upon remaining-unsatisfied performance criteria, shall accelerate as if Executive had completed an additional 12 months of continuous service.⁴

3. **CIC Qualifying Termination.** If Executive is subject to a CIC Qualifying Termination, then, subject to Sections 4, 8, and 9 below, Executive will be entitled to the following benefits:

(a) **Severance Payments.** The Company or its successor shall pay Executive [12]⁵[9]⁶[6]⁷ months' worth of his or her then-current monthly base salary and [100%]⁸[75%]⁹[50%]¹⁰ of Executive's then-current annual target bonus, in each case at the rate in effect immediately prior to the actions that resulted in the Separation). In the event that such CIC Qualifying Termination occurs prior to a Change in Control, then such payment shall be paid in installments on the same terms as set forth in Section 2(a) above. In the event that such CIC Qualifying Termination occurs following a Change in Control, then such payment shall be paid in a cash lump sum payment in accordance with the Company's standard payroll procedures, which payment will be made no later than the first regular payroll date occurring after the sixtieth (60th) day following the Separation, *provided that* the Release Conditions have been satisfied. In addition to the foregoing payments, the Company or its successor shall pay Executive a pro-rata portion of Executive's then-current annual target bonus (based on Executive's actual period of service to the Company during the applicable bonus period), at the rate in effect immediately prior to the actions that resulted in the Separation, payable in a cash lump sum payment in accordance with the Company's standard payroll procedures, which payment will be made no later than the first regular payroll date occurring after the sixtieth (60th) day following the Separation, *provided that* the Release Conditions have been satisfied. For the avoidance of doubt, in the event that a Change in Control occurs within three (3) months following a Qualifying Termination, then, provided that such Qualifying Termination followed a Potential Change in Control, Executive shall receive additional payments in order to provide the benefits described in this Section 3(a), payable within 60 days following the date of such Change in Control.

(b) **Equity.** Each of Executive's then outstanding Equity Awards, excluding awards that would otherwise vest contingent upon remaining-unsatisfied performance criteria, shall accelerate and become vested and exercisable as to 100% of the then-unvested shares subject to the Equity Award. To the extent only service conditions remain with respect to an Equity Award that would otherwise vest in part upon satisfaction of performance criteria, such service conditions shall accelerate. Subject to Section

⁴ Only for C-levels.

⁵ For C-levels.

⁶ For SVPs.

⁷ For VPs.

⁸ For C-levels.

⁹ For SVPs.

¹⁰ For VPs.

4, the accelerated vesting described above shall be effective as of the Separation. For the avoidance of doubt, in order to give effect to the acceleration contemplated by this Section 3(b), each of Executive's outstanding Equity Awards shall remain outstanding and eligible to vest (solely pursuant to the terms of this Section 3(b)) for a period of three (3) months following a Qualifying Termination and will be effective upon the Change of Control.

(c) **Continued Employee Benefits.** The Company or its successor shall provide the Executive with continuation of COBRA benefits or a cash benefit, in both cases on the same terms as set forth in Section 2(b) above for the same period that Executive is paid severance benefits pursuant to Section 3(a) following Executive's Separation.

4. **General Release.** Any other provision of this Agreement notwithstanding, the benefits under Sections 2 and 3 shall not apply unless Executive (i) has executed a general release of all known and unknown claims that he or she may then have against the Company or persons affiliated with the Company and such release has become effective and (ii) has agreed not to prosecute any legal action or other proceeding based upon any of such claims. The release must be in the form prescribed by the Company, without alterations (this document effecting the foregoing, the "**Release**"). The Company will deliver the form of Release to Executive within thirty (30) days after Executive's Separation or such other time limit as is expressly provided in the Release documents, provided however that in all cases the Release must be executed and have become irrevocable within sixty (60) days following the date of the Executive's Separation.

5. **Accrued Compensation and Benefits.** Notwithstanding anything to the contrary in Sections 2 and 3 above, in connection with any termination of employment (whether or not a Qualifying Termination or CIC Qualifying Termination), the Company shall pay Executive's earned but unpaid base salary and other vested but unpaid cash entitlements for the period through and including the termination of employment, including unreimbursed documented business expenses incurred by Executive through and including the date of termination (collectively "**Accrued Compensation and Expenses**"), as required by law and the applicable Company plan or policy. In addition, Executive shall be entitled to any other vested benefits earned by Executive for the period through and including the termination date of Executive's employment under any other employee benefit plans and arrangements maintained by the Company, in accordance with the terms of such plans and arrangements, except as modified herein.

6. **Definitions.**

(a) "**Board**" means the Company's board of directors.

(b) "**Cause**" shall mean, as reasonably determined by the Board, (a) Executive's unauthorized use or disclosure of the Company's confidential information or trade secrets, which use or disclosure causes material harm to the Company, (b) Executive's material breach of any agreement between Executive and the Company, (c) Executive's commission of an act of dishonesty for personal benefit, fraud or embezzlement in connection with Executive's employment, (d) Executive's material failure to comply with the Company's policies or rules that has caused or is reasonably likely to cause material injury to the Company, its successor, or its affiliates (e) Executive's conviction of, or plea of 'guilty' or 'no contest' to, a felony, (f) Executive's failure to perform lawfully assigned duties after receiving written notification of the failure from the Company's Chief Executive Officer or other supervisor or (g) Executive's failure to cooperate in good faith with a governmental or internal investigation of the Company or its directors, officers or employees, if the Company has requested Executive's cooperation in writing, (h) Executive's engagement in gross misconduct or gross neglect of Executive's duties where such misconduct or neglect is materially injurious to the Company, or (i) Executive's breach of any fiduciary duty owed to the Company by Executive that has or could reasonably be expected to cause material harm to the Company. Notwithstanding, the foregoing, in the case of clauses (b), (d), (f) and (g), the Company will not terminate Executive's employment for Cause without first providing Executive with

written notification of the acts or omissions constituting Cause and providing Executive with at least 30 days following such notice to cure such conduct (to the extent capable of cure).

(c) **"Code"** means the Internal Revenue Code of 1986, as amended.

(d) **"Change in Control."** For all purposes under this Agreement, a Change in Control shall have the meaning ascribed to it in the Plan, provided that the transaction (including any series of transactions) also qualifies as a change in control event under U.S. Treasury Regulation 1.409A-3(i)(5)(v) and(vii).

(e) **"CIC Qualifying Termination"** means a Separation (A) within eighteen (18) months following a Change in Control, or (B) within three (3) months preceding a Change in Control (but as to part (B), only if the Separation occurs after a Potential Change in Control) resulting, in either case (A) or (B), from (i) the Company or its successor terminating Executive's employment for any reason other than Cause, or (ii) Executive voluntarily resigning his or her employment for Good Reason. A termination or resignation due to Executive's death or disability shall not constitute a CIC Qualifying Termination. A **"Potential Change in Control"** means the date of execution of a legally binding and definitive agreement for a corporate transaction which, if consummated, would constitute the applicable Change in Control (which for the avoidance of doubt, would include a merger agreement, but not a term sheet for a merger agreement). In the case of a termination following a Potential Change in Control and before a Change in Control, solely for purposes of benefits under this Agreement, the date of Separation will be deemed the date the Change in Control is consummated

(f) **"Equity Awards"** means all options to purchase shares of Company common stock as well as all other stock-based awards granted to Executive, including but not limited to stock bonus awards, restricted stock, restricted stock units and stock appreciation rights but excluding any equity awards that remain subject, in whole or in part, to any unsatisfied performance-based vesting conditions (it being understood that service-based vesting conditions alone shall not be deemed performance-based for this purpose).

(g) **"Good Reason"** means, without Executive's prior written consent, (i) a material reduction in the Executive's duties, authority, or responsibilities relative to Executive's duties, title, authority or responsibilities as an officer or employee in effect immediately prior to such reduction (ii) a reduction by more than 10% in Executive's annual base salary or annual target bonus (other than a reduction generally applicable to executive officers of the Company and in generally the same proportion as for the Executive), (iii) a requirement that Executive relocate Executive's principal place of work to a location more than thirty-five (35) miles from Executive's then-current work location, or (iv) a material breach of this Agreement by the Company. For Executive to receive any benefits under this Agreement as a result of a resignation for Good Reason, all of the following requirements must be satisfied: (1) Executive must provide notice to the Company of his or her intent to assert Good Reason within sixty (60) days of the initial existence of one or more of the conditions set forth in subclauses (i) through (iv); (2) the Company will have thirty (30) days (the **"Company Cure Period"**) from the date of such notice to remedy the condition and, if it does so, Executive may withdraw his or her resignation or may resign with no benefits under this Agreement; and (3) any termination of employment under this provision must occur within ten (10) days of the earlier of expiration of the Company Cure Period or written notice from the Company that it will not undertake to cure the condition set forth in subclauses (i) through (iv). Should the Company remedy the condition as set forth above and then one or more of the conditions arises again, Executive may assert Good Reason again, subject to all of the conditions set forth herein.

(h) **"Plan"** means the Company's 2021 Equity Incentive Plan, as may be amended from time to time.

(i) **"Release Conditions"** mean the following conditions: (i) Company has received Executive's executed Release and (ii) any rescission period applicable to Executive's executed Release has expired (without Executive having rescinded the executed Release).

(j) **"Qualifying Termination"** means a Separation that is not a CIC Qualifying Termination, but which results from the Company terminating Executive's employment for any reason other than Cause or Executive voluntarily resigning his or her employment for Good Reason. A termination or resignation due to Executive's death or disability shall not constitute a Qualifying Termination.

(k) **"Separation"** means a "separation from service," as defined in the regulations under Section 409A of the Code.

7. **Successors.**

(a) **Company's Successors.** The Company shall require any successor (whether direct or indirect and whether by purchase, lease, merger, consolidation, liquidation or otherwise) to all or substantially all of the Company's business and/or assets, by an agreement in substance and form satisfactory to Executive, to assume this Agreement and to agree expressly to perform this Agreement in the same manner and to the same extent as the Company would be required to perform it in the absence of a succession. For all purposes under this Agreement, the term "Company" shall include any successor to the Company's business and/or assets or which becomes bound by this Agreement by operation of law.

(b) **Executive's Successors.** This Agreement and all rights of Executive hereunder shall inure to the benefit of, and be enforceable by, Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees.

8. **Golden Parachute Taxes.**

(a) **Best After-Tax Result.** In the event that any payment or benefit received or to be received by Executive pursuant to this Agreement or otherwise ("**Payments**") would (i) constitute a "parachute payment" within the meaning of Section 280G of the Code and (ii) but for this subsection (a), be subject to the excise tax imposed by Section 4999 of the Code, any successor provisions, or any comparable federal, state, local or foreign excise tax ("**Excise Tax**"), then, subject to the provisions of Section 8, such Payments shall be either (A) provided in full pursuant to the terms of this Agreement or any other applicable agreement, or (B) provided as to such lesser extent which would result in no portion of such Payments being subject to the Excise Tax ("**Reduced Amount**"), whichever of the foregoing amounts, taking into account the applicable federal, state, local and foreign income, employment and other taxes and the Excise Tax (including, without limitation, any interest or penalties on such taxes), results in the receipt by Executive, on an after-tax basis, of the greatest amount of payments and benefits provided for hereunder or otherwise, notwithstanding that all or some portion of such Payments may be subject to the Excise Tax. Unless the Company and Executive otherwise agree in writing, any determination required under this Section shall be made by independent tax counsel designated by the Company and reasonably acceptable to Executive ("**Independent Tax Counsel**"), whose determination shall be conclusive and binding upon Executive and the Company for all purposes. For purposes of making the calculations required under this Section, Independent Tax Counsel may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Sections 280G and 4999 of the Code; provided that Independent Tax Counsel shall assume that Executive pays all taxes at the highest marginal rate. The Company and Executive shall furnish to Independent Tax Counsel such information and documents as Independent Tax Counsel may reasonably request in order to make a determination under this Section. The Company shall bear all costs that Independent Tax Counsel may reasonably incur in connection with any calculations contemplated by this Section. In the event that Section 8(a)(ii)(B) above applies, then based on the information provided to Executive and the Company by Independent Tax Counsel,

Executive may, in Executive's sole discretion and within thirty (30) days of the date on which Executive is provided with the information prepared by Independent Tax Counsel, determine which and how much of the Payments (including the accelerated vesting of equity compensation awards) to be otherwise received by Executive shall be eliminated or reduced (as long as after such determination the value (as calculated by Independent Tax Counsel in accordance with the provisions of Sections 280G and 4999 of the Code) of the amounts payable or distributable to Executive equals the Reduced Amount). If the Internal Revenue Service (the "IRS") determines that any Payment is subject to the Excise Tax, then Section 8(b) hereof shall apply, and the enforcement of Section 8(b) shall be the exclusive remedy to the Company.

(b) **Adjustments.** If, notwithstanding any reduction described in Section 8(a) hereof (or in the absence of any such reduction), the IRS determines that Executive is liable for the Excise Tax as a result of the receipt of one or more Payments, then Executive shall be obligated to surrender or pay back to the Company, within one-hundred twenty (120) days after a final IRS determination, an amount of such payments or benefits equal to the "**Repayment Amount**." The Repayment Amount with respect to such Payments shall be the smallest such amount, if any, as shall be required to be surrendered or paid to the Company so that Executive's net proceeds with respect to such Payments (after taking into account the payment of the Excise Tax imposed on such Payments) shall be maximized. Notwithstanding the foregoing, the Repayment Amount with respect to such Payments shall be zero (0) if a Repayment Amount of more than zero (0) would not eliminate the Excise Tax imposed on such Payments or if a Repayment Amount of more than zero would not maximize the net amount received by Executive from the Payments. If the Excise Tax is not eliminated pursuant to this Section 8(b), Executive shall pay the Excise Tax.

9. Miscellaneous Provisions.

(a) **Section 409A.** To the extent (i) any payments to which Executive becomes entitled under this Agreement, or any agreement or plan referenced herein, in connection with Executive's termination of employment with the Company constitute deferred compensation subject to Section 409A of the Code and (ii) Executive is deemed at the time of such termination of employment to be a "specified" employee under Section 409A of the Code, then such payment or payments shall not be made or commence until the earlier of (i) the expiration of the six (6)-month period measured from the Executive's Separation; or (ii) the date of Executive's death following such Separation; provided, however, that such deferral shall only be effected to the extent required to avoid adverse tax treatment to Executive, including (without limitation) the additional twenty percent (20%) tax for which Executive would otherwise be liable under Section 409A(a)(1)(B) of the Code in the absence of such deferral. Upon the expiration of the applicable deferral period, any payments which would have otherwise been made during that period (whether in a single sum or in installments) in the absence of this paragraph shall be paid to Executive or Executive's beneficiary in one lump sum (without interest). Except as otherwise expressly provided herein, to the extent any expense reimbursement or the provision of any in-kind benefit under this Agreement (or otherwise referenced herein) is determined to be subject to (and not exempt from) Section 409A of the Code, the amount of any such expenses eligible for reimbursement, or the provision of any in-kind benefit, in one calendar year shall not affect the expenses eligible for reimbursement or in kind benefits to be provided in any other calendar year, in no event shall any expenses be reimbursed after the last day of the calendar year following the calendar year in which Executive incurred such expenses, and in no event shall any right to reimbursement or the provision of any in-kind benefit be subject to liquidation or exchange for another benefit. To the extent that any provision of this Agreement is ambiguous as to its exemption or compliance with Section 409A, the provision will be read in such a manner so that all payments hereunder are exempt from Section 409A to the maximum permissible extent, and for any payments where such construction is not tenable, that those payments comply with Section 409A to the maximum permissible extent. To the extent any payment under this Agreement may be classified as a "short-term deferral" within the meaning of Section 409A, such payment shall be deemed a short-term deferral, even if it may also qualify for an exemption from Section 409A under another provision of Section 409A. Payments pursuant to this Agreement (or referenced in this Agreement) are intended to constitute

separate payments for purposes of Section 1.409A-2(b)(2) of the regulations under Section 409A. To the extent any nonqualified deferred compensation subject to Section 409A of the Code payable to Executive hereunder could be paid in one or more taxable years depending upon Executive completing certain employment-related actions (such as resigning after a failure to cure a Good Reason event and/or returning the Release), then any such payments will commence or occur in the later taxable year to the extent required by Section 409A of the Code.

(b) **Other Arrangements.** This Agreement supersedes any and all cash severance arrangements and vesting acceleration arrangements under any agreement governing Equity Awards, severance and salary continuation arrangements, programs and plans which were previously offered by the Company to Executive, including employment agreement or offer letter, and Executive hereby waives Executive's rights to such other benefits. In no event shall any individual receive cash severance benefits under both this Agreement and any other vesting acceleration, severance pay or salary continuation program, plan or other arrangement with the Company. For the avoidance of doubt, in no event shall Executive receive payment under both Section 2 and Section 3 with respect to Executive's Separation.

(c) **Dispute Resolution.** To ensure rapid and economical resolution of any and all disputes that might arise in connection with this Agreement, Executive and the Company agree that any and all disputes, claims, and causes of action, in law or equity, arising from or relating to this Agreement or its enforcement, performance, breach, or interpretation, will be resolved solely and exclusively by final, binding, and confidential arbitration, by a single arbitrator, in Santa Clara County, and conducted by Judicial Arbitration & Mediation Services, Inc. ("JAMS") under its then-existing employment rules and procedures. Nothing in this section, however, is intended to prevent either party from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any such arbitration. Each party to an arbitration or litigation hereunder shall be responsible for the payment of its own attorneys' fees.

(d) **Notice.** Notices and all other communications contemplated by this Agreement shall be in writing and shall be deemed to have been duly given when personally delivered or when mailed by U.S. registered or certified mail, return receipt requested and postage prepaid or deposited with Federal Express Corporation, with shipping charges prepaid. In the case of Executive, mailed notices shall be addressed to him or her at the home address which he or she most recently communicated to the Company in writing. In the case of the Company, mailed notices shall be addressed to its corporate headquarters, and all notices shall be directed to the attention of its Secretary.

(e) **Waiver.** No provision of this Agreement shall be modified, waived or discharged unless the modification, waiver or discharge is agreed to in writing and signed by Executive and by an authorized officer of the Company (other than Executive). No waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time.

(f) **Withholding Taxes.** All payments made under this Agreement shall be subject to reduction to reflect taxes or other charges required to be withheld by law.

(g) **Severability.** The invalidity or unenforceability of any provision or provisions of this Agreement shall not affect the validity or enforceability of any other provision hereof, which shall remain in full force and effect.

(h) **No Retention Rights.** Nothing in this Agreement shall confer upon Executive any right to continue in service for any period of specific duration or interfere with or otherwise restrict in any way the rights of the Company or any subsidiary of the Company or of Executive, which rights are hereby expressly reserved by each, to terminate his or her service at any time and for any reason, with or without Cause.

(i) **Choice of Law.** The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of California (other than its choice-of-law provisions).

[Signature Page Follows]

IN WITNESS WHEREOF, each of the parties has executed this Agreement, in the case of the Company by its duly authorized officer, as of the day and year first above written.

EXECUTIVE

ARCHER AVIATION INC.

Print Name:

By:

Title:

CERTAIN IDENTIFIED INFORMATION HAS BEEN EXCLUDED FROM THIS EXHIBIT BECAUSE IT IS NOT MATERIAL AND WOULD LIKELY CAUSE COMPETITIVE HARM TO THE REGISTRANT IF PUBLICLY DISCLOSED. [*] INDICATES THAT INFORMATION HAS BEEN REDACTED.**

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (this "Sublease") is made and entered into as of January 14, 2022 (the "Effective Date"), by and between FORESCOUT TECHNOLOGIES, INC., a Delaware corporation ("Sublandlord"), and ARCHER AVIATION INC., a Delaware corporation ("Subtenant").

RECITALS

WHEREAS, CF Tasman SV LLC, a Delaware limited liability company, predecessor-in-interest to TCSP LLC, a California limited liability company ("Landlord"), as landlord, and Sublandlord, as tenant, entered into that certain Lease Agreement dated October 16, 2015 (the "Master Lease"), whereby Landlord leased to Sublandlord certain premises consisting of approximately 95,948 rentable square feet comprising the building located at 190 West Tasman Drive, San Jose, California (the "Building"), upon the terms and conditions contained therein. A copy of the Master Lease is attached hereto as Exhibit A and made a part hereof; and

WHEREAS, Sublandlord desires to sublease to Subtenant and Subtenant desires to sublease from Sublandlord, upon and subject to the terms stated herein, the entire Premises, as more depicted on Exhibit B attached hereto and made a part hereof, together with those parking spaces leased by Sublandlord pursuant to the Master Lease (collectively, the "Sublease Premises"), on the terms and conditions hereafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually covenant and agree as follows:

1. Recitals; Definitions. The foregoing recitals are true and correct and are incorporated herein by this reference. Capitalized terms used but not otherwise defined herein will have the meanings ascribed to such terms in the Master Lease.

2. Demise; Delivery of Sublease Premises; FF&E.

a. Demise. Sublandlord hereby subleases and demises to Subtenant and Subtenant hereby hires and subleases from Sublandlord the Sublease Premises, upon and subject to the terms, covenants and conditions hereinafter set forth. Subtenant will also have the right to use the Outside Areas in conjunction with its use of the Sublease Premises pursuant to Section 2.1 of the Master Lease, including the right to use the Adjacent Outside Area described in Section 4.10 of the Master Lease. During the Early Access Period (as defined below) and thereafter during the Term, Subtenant will have an unlimited, exclusive right to access the roof of the Sublease Premises for installation, maintenance, repair, and operation of its telecommunications equipment, HVAC, and any other reasonably necessary equipment for the operation of Subtenant's business within the Sublease Premises, provided that all such access, installation, maintenance, repair, and operation will be subject to the terms and conditions of Article 19 of the Master Lease.

b. Delivery of the Sublease Premises. Sublandlord will deliver the Sublease Premises to Subtenant on a date (the "Delivery Date") within thirty (30) days following the later of (i) mutual execution of this Sublease, and (ii) the date Sublandlord has obtained and supplied to Subtenant a written consent and non-disturbance agreement executed by Landlord in a form acceptable to Sublandlord and Subtenant (the "Landlord Consent"). In the event Sublandlord has not obtained the Landlord Consent and caused the Delivery Date to occur within sixty (60) days after the Effective Date of this Sublease, Subtenant will have the right to terminate this Sublease, in which event, Sublandlord will return all

amounts previously deposited with Sublandlord by Subtenant. Sublandlord will deliver the Sublease Premises to Subtenant in its “as is” condition and with all existing furniture, wiring, information technology, security, and telecommunications equipment remaining in place in their “as is” condition.

c. Furniture, Fixtures, and Equipment. Within ten (10) days after the Effective Date, Sublandlord will provide Subtenant with a list of furniture, fixtures, and equipment located within the Sublease Premises (collectively, “FF&E”). Sublandlord makes no representation and warranty as to the suitability or condition of the FF&E. Subtenant will acquire all FF&E in its “as is” condition on the Delivery Date from Sublandlord pursuant to a bill of sale substantially in the form attached hereto as Exhibit D and made a part hereof. To the extent that Subtenant does not wish to use any of the FF&E during the Term, Subtenant will dispose of the same at its sole cost and expense. Upon the expiration or earlier termination of this Sublease, Subtenant will remove all FF&E acquired by Subtenant pursuant to this Section 2(c) from the Sublease Premises and in accordance with the terms and conditions of Section 22(c).

3. Term; Early Access;

a. Term. The term (“Term”) of this Sublease will commence on the date that is thirty (30) days following the Delivery Date (the “Sublease Commencement Date”) and will expire on October 31, 2026 (the “Sublease Expiration Date”), unless sooner terminated as provided herein or if the Master Lease terminates for any reason. Any occupation by Subtenant following the Sublease Expiration Date will not constitute an extension or renewal of this Sublease or an extension of the Term. Within five (5) business days following the Sublease Commencement Date, Sublandlord and Subtenant will execute a commencement date agreement in substantially the form attached hereto as Exhibit E and made a part hereof; however, the failure of the parties to execute such agreement will not defer the Sublease Commencement Date or otherwise invalidate this Sublease.

b. Early Access. Subject to compliance with the terms and conditions of this Sublease, Sublandlord grants to Subtenant an unlimited, twenty-four (24) hour per day right (the “Early Access Right”) to access the Sublease Premises during the period beginning on the Delivery Date and expiring on the Sublease Commencement Date (such period, the “Early Access Period”) solely for (i) the construction, storage, and installation of Subtenant’s equipment and (ii) the designing, permitting, and construction of Subtenant’s interior improvements (collectively, the “Initial Alterations”). The Early Access Right will be subject to the following conditions: (w) Subtenant must have provided Sublandlord with all required evidence of required insurance under this Sublease; (x) all applicable terms and conditions of this Sublease will apply during the Early Access Period; (y) no Rent will be payable by Subtenant during the Early Access Period, but Subtenant will pay for all actual fees, costs, and expenses incurred by Subtenant in connection with the performance of the Initial Alterations; and (z) all Initial Alterations will be subject to the terms and conditions of this Sublease. For the avoidance of doubt, Sublandlord will not provide any Subtenant improvement allowance in connection with the Initial Alterations.

4. Rent.

a. Base Rent. Beginning on the Sublease Commencement Date and thereafter during the Term of this Sublease, Subtenant will pay to Sublandlord the following base rent (“Base Rent”):

Period	Rate per Square Foot	Monthly Base Rent
Sublease Commencement Date to the last day of the 5 th full calendar month of the Term	***	***
6 th through 12 th full calendar months of the Term	***	***
13 th through 24 th full calendar months of the Term	***	***
25 th through 36 th full calendar months of the Term	***	***
37 th through 48 th full calendar months of the Term	***	***
49 th full calendar month through Sublease Expiration Date	***	***

b. **Additional Rent.** Beginning on the Sublease Commencement Date and thereafter throughout the Term and in accordance with Article 3.2 of the Master Lease, Subtenant will pay to Sublandlord as additional rent (“**Additional Rent**”) an amount equal to the sum of (i) Tenant’s Proportionate Share of the Building (as defined in the Master Lease) for the Property Maintenance Costs (as defined in the Master Lease) incurred by Landlord related solely to the Building; (ii) Tenant’s Proportionate Share of the Building for the Real Property Taxes (as defined in the Master Lease) related solely to the Building and the Parcel 5 Land upon which the Building is located; (iii) Tenant’s Proportionate Share of Project (as defined in the Master Lease) for the Operating Expenses (as defined in the Master Lease) related to the Outside Areas (as defined in the Master Lease); and (d) Tenant’s Proportionate Share of the Building for Landlord’s Insurance Costs (as defined in the Master Lease) for the Building as to Insurance Costs covering the Building and Tenant’s Proportionate Share of Project as to Insurance Costs covering the Project or Landlord. All Additional Rent payable by Subtenant will be paid to Sublandlord by Subtenant no later than the time that Sublandlord is required to pay the same under the Master Lease. Notwithstanding anything herein or in the Master Lease to the contrary, Subtenant will pay Additional Rent to Sublandlord on a direct pass-through basis, subject to Subtenant’s right to review and trigger an audit of all such Additional Rent in accordance with Section 3.9 of the Master Lease, as further set forth in **Section 4(c)** below. All amounts required to be paid by Subtenant under this **Section 4(b)** will be paid in the same manner as Base Rent pursuant to **Section 4(a)**.

c. **Review and Audit of Additional Rent.** Upon Subtenant’s request, Sublandlord agrees to cooperate in good faith with Subtenant to initiate and perform a review and audit of all Additional Rent passed through to Subtenant pursuant to this Sublease in accordance with Section 3.9 of the Master Lease. Without limiting the foregoing, Sublandlord agrees to: (i) forward all Annual Statements (as defined in the Master Lease) to Subtenant within three (3) business days after Sublandlord’s receipt thereof from Landlord, and (ii) deliver to Landlord an Expense Claim (as defined in the Master Lease) within three (3) business days after Sublandlord’s request. Additionally, Sublandlord agrees to initiate, within three (3) business days after Subtenant’s request, and thereafter diligently pursue an audit of Operating Expenses (as defined in the Master Lease) in accordance with Sections 3.9.2 and 3.9.3 of the Master Lease with a CPA approved by Subtenant (and approved by Master Landlord in accordance with Section 3.9.2). Sublandlord and Subtenant will work together in good faith to coordinate any such audit requested by Subtenant, with Subtenant having the right to direct such audit through Sublandlord and receive copies of all audit reports. Subtenant will pay all costs and expenses of the CPA engaged to perform any such audit requested by Subtenant and the costs and expenses of any Independent CPA (as defined in the Master Lease) engaged pursuant to Section 3.9.3 of the Master Lease; provided, however, that in the event Landlord is required to pay all or any portion of the costs and expenses of an audit pursuant to Section 3.9.3 of the Master Lease, Subtenant will be entitled to the benefit of any such payments made by Landlord. Additionally, Subtenant will be entitled to the benefit of any adjustments made to Operating Expenses and will be responsible for paying any deficiencies in Operating Expenses payments pursuant to Section 3.9.4 of the Master Lease.

d. **Pre-Paid Rent.** Subtenant will pay the first monthly installment of Base Rent to Sublandlord within two (2) business days following the delivery to Sublandlord of the fully-executed Landlord Consent. Thereafter during the Term, Subtenant will pay Base Rent to Sublandlord in advance on the first (1st) calendar day of each month.

e. Payment of Rent Generally. Base Rent, Additional Rent, and all other costs or charges payable by Subtenant to Sublandlord pursuant to this Sublease (including, without limitation, any late fees) will hereinafter be collectively referred to as “Rent”. Subtenant will, simultaneous with each payment of Rent, pay any and all sales and use taxes due on any Rent paid hereunder. Except as otherwise specifically provided in this Sublease, Rent will be payable in lawful money without demand, and without offset, counterclaim, or setoff in monthly installments, in advance, on the first day of each and every month during the Term of this Sublease. Subtenant will pay all Rent to Sublandlord at its address set forth in Section 20 or at such other place or to such agent and at such place as Sublandlord may designate by written notice to Subtenant. Any additional Rent payable on account of items which are not payable monthly by Sublandlord to Landlord under the Master Lease is to be paid to Sublandlord as and when such items are payable by Sublandlord to Landlord under the Master Lease unless a different time for payment is elsewhere stated herein. Upon written request therefor, Sublandlord agrees to provide Subtenant with copies of any statements or invoices received by Sublandlord from Landlord pursuant to the terms of the Master Lease.

f. Prorations. If the Sublease Commencement Date is not the first (1st) day of a month, or if the Sublease Expiration Date is not the last day of a month, Subtenant will pay a prorated installment of Rent, based on the actual number of days in the month, for the fractional month during which the Term commenced or terminated.

g. Interest. Any amount due from Subtenant which is not paid within ten (10) days of the date such payment is due will bear interest for the benefit of Sublandlord at the Interest Rate (as defined in the Master Lease). Interest will accrue from the date such payment is due until paid, but the payment of such interest will not excuse or cure any Default by Subtenant under this Sublease. Such rate will remain in effect after the occurrence of any Default to and until payment of the entire amount due.

h. Late Charges. If Subtenant is more than five (5) days late in paying any of its obligations under this Sublease, Subtenant will pay Sublandlord a late charge equal to five percent (5%) of the delinquent amount. The parties agree that it would be impractical or extremely difficult to fix Sublandlord’s actual damages due to a late payment by Subtenant and that the amount of such late charge represents a reasonable estimate of the cost and expense that would be incurred by Sublandlord in processing each delinquent payment by Subtenant and that such late charge will be paid to Sublandlord as liquidated damages for each delinquent payment. The parties further agree that the payment of late charges and the payment of interest provided for in Section 4(g) above are distinct and separate from one another in that the payment of interest is to compensate Sublandlord for the use of Sublandlord’s money by Subtenant, while the payment of a late charge is to compensate Sublandlord for the additional administrative expense incurred by Sublandlord in handling and processing delinquent payments. The payment of any late charge by Subtenant and the acceptance thereof by Sublandlord will not be deemed a waiver by Sublandlord of its rights regarding any Default by Subtenant under this Sublease.

5. Letter of Credit

a. Delivery of Letter of Credit. Within five (5) business days after the later of (i) mutual execution of this Sublease, and (ii) the date Sublandlord has obtained and supplied the Landlord Consent to Subtenant, Subtenant will deliver to Sublandlord, as protection for the full and faithful performance by Subtenant of all of its obligations under this Sublease and for all losses and damages Sublandlord may suffer (or which Sublandlord reasonably estimates that it may suffer) as a result of any breach or default by Subtenant under this Sublease, an irrevocable and unconditional negotiable standby letter of credit in the amount of [***] (the “Letter of Credit Amount”), payable upon presentation to an operating retail branch located in the San Francisco Bay Area, running in favor of Sublandlord and issued by a solvent, nationally recognized bank reasonably acceptable to Sublandlord and with a long term rating from Standard and Poor’s Professional Rating Service of A or a comparable rating from Moody’s Professional Rating Service or higher, under the supervision of the Superintendent of Banks of the State of California. The Letter of Credit will (i) be “callable” at sight, irrevocable and unconditional; (ii) be maintained in effect, whether through renewal (pursuant to a so-called “evergreen provision”) or extension, for the period from the Commencement Date until the date (the “Letter of Credit Expiration Date”) that is sixty (60) days after the Sublease Expiration Date, and if the Bank (as defined below) has notified Sublandlord that the Letter of Credit will not be renewed or extended through the Letter of Credit

Expiration Date, Subtenant will deliver to Sublandlord a new Letter of Credit at least thirty (30) days prior to the expiration of the Letter of Credit then held by Sublandlord, without any action whatsoever on the part of Sublandlord; (iii) be fully transferrable by Sublandlord, its successors and assigns; (iv) be payable to Sublandlord or its assignees (collectively, "Beneficiary"); (v) require that any draw on the Letter of Credit will be made only upon receipt by the issuer of a letter signed by a purported authorized representative of Beneficiary certifying that Beneficiary is entitled to draw on the Letter of Credit pursuant to this Sublease; (vi) permit partial draws and multiple presentations and drawings; and (vi) be otherwise subject to the Uniform Customs and Practices for Documentary Credits (2007-Rev) or International Chamber of Commerce Publication #600. In addition to the foregoing, the form and terms of the Letter of Credit and the bank issuing the same (the "Bank") will be acceptable to Sublandlord in its sole discretion. Sublandlord hereby approves Silicon Valley Bank as an acceptable Bank. If Sublandlord notifies Subtenant in writing that the Bank which issued the Letter of Credit has become financially unacceptable because the above requirements are not met or the Bank has filed bankruptcy or reorganization proceedings or is placed into a receivership or conservatorship, then Subtenant will have thirty (30) days to provide Sublandlord with a substitute Letter of Credit complying with all of the requirements of this Section 5. If Subtenant does not so provide Sublandlord with a substitute Letter of Credit within such thirty (30) day period, then Beneficiary will have the right to draw upon the then current Letter of Credit, but such draw or failure to replace the Letter of Credit will not constitute a default under this Sublease. In addition to Beneficiary's rights to draw upon the Letter of Credit as otherwise described in this Section 5, Beneficiary will have the right to draw down an amount up to the face amount of the Letter of Credit if any of the following will have occurred or be applicable: (i) a Default has occurred; (ii) an event has occurred which, with the passage of time or giving of notice or both, would constitute a Default where Sublandlord is prevented from, or delayed in, giving such notice because of a bankruptcy or other insolvency proceeding filed against Subtenant; (iii) this Sublease is terminated by Sublandlord due to a Default; (iv) Subtenant has filed a voluntary petition under the Bankruptcy Code; (v) an involuntary petition has been filed against Subtenant under the Bankruptcy Code; or (vi) the Bank has notified Sublandlord that the Letter of Credit will not be renewed or extended through the Letter of Credit Expiration Date and Subtenant has not provided a replacement Letter of Credit that satisfies the requirements of this Section 5 within thirty (30) days prior to the expiration of the Letter of Credit, but such draw or failure to replace the Letter of Credit will not constitute a Default. The Letter of Credit will be honored by the Bank regardless of whether Subtenant disputes Sublandlord's right to draw upon the Letter of Credit. Subtenant will be responsible for paying the Bank's fees in connection with the issuance of any Letter of Credit, certificate of renewal or extension amendment. For the avoidance of doubt, Sections 16.2, 16.3, 16.4, and 16.5 of the Master Lease will apply to the rights and obligations of the parties with respect to the Letter of Credit.

b. Reduction of Letter of Credit. Provided that no Default is then continuing, the Letter of Credit Amount will reduce by the amount of the monthly Base Rent during the last period of the Term in accordance with the following timing: (i) on February 1, 2023, the Letter of Credit Amount will reduce by the amount of [***], and the new Letter of Credit Amount will be [***]; (ii) on February 1, 2024, the Letter of Credit Amount will reduce by the amount of [***], and the new Letter of Credit Amount will be [***]; (iii) on February 1, 2025, the Letter of Credit Amount will reduce by the amount of [***] and the new Letter of Credit Amount will be [***]; and (iv) on February 1, 2026, the Letter of Credit Amount will reduce by the amount of [***], and the new Letter of Credit Amount will be [***]. Provided that Subtenant tenders the replacement or amended Letter of Credit to Sublandlord satisfying each and all of the requirements set forth in this Section 5, Sublandlord will exchange the Letter of Credit then held by Sublandlord for the replacement Letter of Credit tendered by Subtenant or accept and acknowledge the amendment to the Letter of Credit then held by Sublandlord, as applicable, reflecting the reduced stated amount pursuant to this Section 5(b).

6. Use; Compliance with Laws. Subtenant will use and occupy the Sublease Premises solely for general office, research and development, light manufacturing, storage, and any ancillary uses thereto, to the extent permitted under Laws (as defined below) and to the extent not contradicted by the terms and conditions of the Master Lease. Subtenant will not use or permit the use of the Sublease Premises (a) for any purpose which is illegal, or dangerous to persons or property; (b) for any purpose that might invalidate or materially increase the rate of insurance therefor; or (c) for any purpose whatsoever which might create a nuisance. Subtenant will not (w) deface or injure the Sublease Premises; (x) overload any floors; (y) commit or suffer any waste; or (z) install any electrical equipment that overloads any lines.

Subtenant will comply with all applicable statutes, codes, ordinances, orders, rules and regulations of any municipal, quasi-governmental or governmental entity (collectively "Laws") and with all applicable regulations of the National Board of Fire Underwriters, regarding the operation of Subtenant's business and the use, condition, configuration and occupancy of the Sublease Premises. Subtenant, within ten (10) days after receipt, will provide Sublandlord with copies of any written notices that Subtenant receives regarding a violation of any Laws with respect to its use of the Sublease Premises. Subtenant will comply with all Rules and Regulations established by Landlord for the Building and the Project, a current version of which are included hereto as Exhibit F.

7. Utilities; Services. During the Term, Subtenant will perform and observe the terms and conditions of Section 5.2 and Section 5.3 of the Master Lease with respect to utilities and services. Subtenant (and not Sublandlord) will be solely responsible for providing, at Subtenant's sole cost and expense, any telephone, operator, or other telephone services, as well as any telecommunications or fiber optic, cable or other connectivity required or desired in connection with Subtenant's use and occupancy of the Sublease Premises. Any upgrades to existing technologies or services within the Sublease Premises or serving the Sublease Premises (including, without limitation, any generators) will be arranged and paid for by Subtenant at Subtenant's sole cost and expense and will subject to Sublandlord's prior written consent, not to be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary contained in this Sublease, Subtenant will be solely responsible for, and will pay to Sublandlord promptly upon request as additional Rent, all costs and expenses actually incurred by Sublandlord in connection with, or as a result of, any special, excess or after-hours utilities or services which are beyond that typically provided or contemplated by this Sublease and which are actually incurred by Sublandlord at the request of, or on behalf of, Subtenant, or with respect to the Sublease Premises.

8. Personal Property Taxes. Subtenant will pay, or cause to be paid, before delinquency, any and all taxes levied or assessed and which become payable during the Term upon all Subtenant's leasehold improvements, equipment, furniture, fixtures, and any other personal property located in the Sublease Premises. In the event any or all of Subtenant's leasehold improvements, equipment, furniture, fixtures, and other personal property are assessed and taxed with the real property, then Subtenant will pay to Sublandlord the amount of such taxes within thirty (30) days after delivery to Subtenant by Sublandlord of a written statement setting forth the amount of such taxes and providing a reasonably detailed explanation of the calculation of any such charge(s). Subtenant will have the right to protest any such taxes at its sole cost and expense.

9. Parking. Subtenant will have the right to use those parking spaces leased to Sublandlord pursuant to the Master Lease, subject to the terms and conditions of Section 4.5 of the Master Lease.

10. Incorporation of Terms of Master Lease.

a. Sublease Subordinate to Master Lease. This Sublease is subject and subordinate to the Master Lease. Subject to the modifications set forth in this Sublease, the terms of the Master Lease are incorporated herein by reference, and will, as between Sublandlord and Subtenant (as if they were Landlord and Tenant, respectively, under the Master Lease) constitute the terms of this Sublease except to the extent that they are inapplicable to, inconsistent with, or modified by, the terms of this Sublease. Except as otherwise expressly provided herein (including the immediately preceding sentence) and except with respect to the Excluded Provisions (as defined below), Subtenant will perform all affirmative covenants and will refrain from performing any act which is prohibited by the negative covenants of the Master Lease, where the obligation to perform or refrain from performing is by its nature imposed upon the party in possession of the Sublease Premises. If practicable, Subtenant will perform affirmative covenants which are also covenant of Sublandlord under the Master Lease prior to the date when Sublandlord's performance is required under the Master Lease (provided that if notice is required under the Master Lease in connection therewith that Sublandlord provides Subtenant with such notice). In the event of any inconsistencies between the terms and provisions of the Master Lease and the terms and provisions of this Sublease, the terms and provisions of this Sublease will govern as between Sublandlord and Subtenant. Subtenant acknowledges that it has reviewed the Master Lease and is familiar with the terms and conditions thereof.

b. Provision of Services Under Master Lease. Sublandlord hereby grants to Subtenant the right to receive all of the services and benefits with respect to the Sublease Premises which

are to be provided by Landlord under the Master Lease. Subtenant recognizes that Sublandlord is not in a position to, and will have no obligation to, furnish the services set forth in the Master Lease, to obtain an agreement of non-disturbance pursuant to Section 13.1 of the Master Lease, to obtain any consents from Landlord required by Subtenant (except as set forth in Section 13 below), or to perform certain other obligations which are not with the control of Sublandlord or which, by their nature, are the obligation of an owner or manager of real property, such as, without limitation, maintenance, repairs and replacements to the Building and the Sublease Premises. Consequently, notwithstanding anything to the contrary contained in this Sublease, Subtenant agrees that Subtenant will look solely to Landlord to furnish all services and to perform all obligations agreed upon by Landlord under the Master Lease to furnish and perform. Sublandlord will not be liable to Subtenant or be deemed in default hereunder for failure of Landlord to furnish or perform such services. Sublandlord will have no responsibility for, or be liable to Subtenant for, any default, failure or delay on the part of Landlord in the performance or observance by Landlord of any of its obligations under the Master Lease, nor will such default by Landlord affect this Sublease or waive or defer the performance of any of Subtenant's obligations hereunder, and neither will the Rent and any other charges hereunder abate nor will any of the obligations of Subtenant hereunder be affected by reason thereof, unless there is a similar abatement under the Master Lease, and Subtenant agrees to look solely to Landlord for the performance of same.

Notwithstanding the foregoing or anything else set forth in this Sublease to the contrary, the following will apply with respect to any default by Landlord under the Master Lease (a "Landlord Default"). Subtenant will first use commercially reasonable efforts to resolve any Landlord Default directly with Landlord. If Subtenant is unable to resolve any such Landlord Default to Subtenant's satisfaction (including, without limitation, Landlord's refusal to deal directly with Subtenant), then upon Subtenant's written request (except, in the event of an Emergency (as defined in the Master Lease), oral notice will be sufficient), Sublandlord agrees to promptly and in good faith assist Subtenant to resolve such Landlord Default, which will include, without limitation, providing Landlord with all notices required or permitted pursuant to Section 12.8 of the Master Lease and thereafter diligently pursuing all rights and remedies of Sublandlord in connection with such Landlord Default pursuant to Section 12.8 of the Master Lease. Without limiting the foregoing, Subtenant has the right to make repairs required of Landlord and is entitled to all Rent deductions in accordance with Section 12.8 of the Master Lease, and Sublandlord agrees to cooperate and assist Subtenant in good faith in connection therewith, including, without limitation, pursuing arbitration pursuant to Section 12.8.2(c) of the Master Lease if requested by Subtenant.

c. Master Lease Terms. For the purposes of incorporation herein, the terms of the Master Lease are subject to the following additional modifications:

i. In all provisions of the Master Lease (under the terms thereof and without regard to modifications thereof for purposes of incorporation into this Sublease) requiring the approval or consent of Landlord, Subtenant will be required to obtain the written consent of both Sublandlord and Landlord; provided, however, in no event will Sublandlord unreasonably withhold, condition or delay such consent.

ii. In all provisions of the Master Lease requiring Subtenant to submit, exhibit to, supply or provide Landlord with evidence, certificates, or any other matter or thing, Subtenant will be required to submit, exhibit to, supply or provide, as the case may be, the same to both Landlord and Sublandlord. In any such instance, Sublandlord will reasonably determine if such evidence, certificate, or other matter or thing will be satisfactory.

iii. Sublandlord will have no obligation to restore or rebuild any portion of the Sublease Premises after any destruction or taking by eminent domain, which obligation will remain with Landlord subject to the terms of the Master Lease.

iv. Subtenant will in no event be entitled to any rights of first offer, first opportunity, rights of first refusal or first negotiation, or options to renew or extend the Term under the Master Lease, nor any rights to expand, decrease, license, or otherwise terminate the Master Lease early.

v. Without limiting the foregoing, the following provisions of the Master Lease are specifically excluded from this Sublease (the "Excluded Provisions"): the Basic Lease

Information (except for references to the “Project” and the “Building”, “Tenant’s Proportionate Share of the Building”, “Tenant’s Proportionate Share of the Project”, the “Permitted Use”, and “Parking”); any definitions under Section 1.1 which are solely referenced within any clauses excluded pursuant to this Section 10(e)(v); Section 2.2, Section 2.3, Section 2.4, Section 3.1, Section 3.2, Section 3.5, Section 3.7, Section 3.10, Section 4.5.2, Section 5.1.3, Section 6.6, Section 7.7, Section 7.10.1, Section 7.12, Section 12.1, Section 14.1, Section 14.2, Section 16.1, Section 16.6, Section 16.7, Article 17, Article 18, Section 20.9, and Section 20.12; and Exhibits B, C, and D.

11. Casualty and Condemnation.

a. Casualty. If at any time during the Term, the Sublease Premises or the Building are either partially or totally destroyed, then the provisions of Article 10 of the Master Lease will govern the rights of Landlord and Sublandlord. If the Master Lease is terminated as a result of the respective rights of either Landlord or Sublandlord pursuant to the terms of the Master Lease, this Sublease will terminate concurrent with such termination of the Master Lease. Notwithstanding the foregoing, in the event of any casualty where the Master Lease or this Sublease is not terminated, Subtenant will be entitled to a reduction of Base Rent and Additional Rent in proportion to the areas of the Sublease Premises rendered untenantable during the period beginning with the date such rentable area becomes untenantable and Subtenant ceases to use such rentable area for the normal conduct of its business and ending five (5) business days after Substantial Completion (as defined in the Master Lease) of Landlord’s Restoration Work (as defined in the Master Lease). This Section 11(a) and the termination rights set forth in Sections 10.4 and 10.9 of the Master Lease (which will apply so as to give Subtenant the right to terminate this Sublease upon the terms contained therein) will be Subtenant’s sole and exclusive remedies in the event of damage or destruction to the Sublease Premises or the Building. As a material inducement to Sublandlord entering into this Sublease, Subtenant hereby waives any rights it may have under Sections 1932, 1933(4), 1941 or 1942 of the Civil Code of California with respect to any destruction of the Sublease Premises, Sublandlord’s obligation for tenantability of the Sublease Premises, and Subtenant’s right to make repairs and deduct the expenses of such repairs, or under any similar law, statute or ordinance now or hereafter in effect.

b. Condemnation. If at any time during the Term, the Sublease Premises or the Building are taken or appropriated by any public or quasi-public authority under the power of eminent domain, then the provisions of Article 11 of the Master Lease will govern the rights of Landlord and Sublandlord. If the Master Lease is terminated as a result of the respective rights of either Landlord or Sublandlord pursuant to the terms of the Master Lease, this Sublease will terminate concurrent with such termination of the Master Lease. In the event of a taking of the Sublease Premises which does not result in a termination of this Sublease (other than a temporary taking), then, as of the date possession is taken by the condemning authority, Base Rent and Additional Rent will be reduced in proportion to the areas of the Sublease Premises so taken (less any addition to the area of the Sublease Premises by reason of any reconstruction) bears to the area of the Sublease Premises immediately prior to such taking. The rights and obligations of Sublandlord and Subtenant on any taking of the Sublease Premises or any other portion of the Project are governed exclusively by this Sublease; provided, however, that Subtenant will have the right to terminate this Sublease upon the same terms and conditions set forth in Sections 11.1 and 11.4 of the Master Lease. Accordingly, Subtenant hereby waives the provisions of any Laws to the contrary, including California Code of Civil Procedure Sections 1265.120 and 1265.130, or any similar successor statute.

12. Subtenant’s Obligations. Subtenant covenants and agrees that all obligations of Sublandlord under the Master Lease will be done or performed by Subtenant with respect to the Sublease Premises, except as otherwise provided by this Sublease (and expressly excluding, without limitation, any such obligations set forth in the Excluded Provisions), and Subtenant’s obligations will run to Sublandlord and Landlord as Sublandlord may reasonably determine to be appropriate or be required by the respective interests of Sublandlord and Landlord. Subtenant will indemnify Sublandlord, and hold it harmless, from and against any and all claims, damages, losses, expenses and liabilities (including reasonable attorneys’ fees) incurred as a result of the non-performance, non-observance or non-payment of any of Sublandlord’s obligations under the Master Lease which, as a result of this Sublease, became an obligation of Subtenant. If Subtenant makes any payment to Sublandlord pursuant to this indemnity, Subtenant will be subrogated to the rights of Sublandlord concerning said payment.

Subtenant will not do, nor permit to be done, any act or thing which is, or with notice or the passage of time would be, a Default or a default under the Master Lease.

13. Sublandlord's Obligations. Sublandlord represents and warrants to Subtenant that as of the Delivery Date, neither Sublandlord nor Landlord are in default of the Master Lease, nor has an event occurred which, with the passage of time or giving of notice or both, would constitute a default by Sublandlord or Landlord under the Master Lease. Sublandlord covenants and agrees with Subtenant that Sublandlord will timely perform all of its obligations under the Master Lease (including, but not limited to, payment of all Rent (as defined in the Master Lease) and other amounts payable by Sublandlord pursuant to the Master Lease). In the event Sublandlord fails to timely perform any such obligations under the Master Lease, then in addition to any other rights and remedies, Subtenant will have the right to perform such obligations and offset the costs thereof against any amounts due to Sublandlord under this Sublease. With respect to any matter requiring Landlord's consent or approval under the Master Lease, Sublandlord covenants and agrees to request and use commercially reasonable efforts to obtain such consent or approval, as applicable, from Landlord upon Subtenant's reasonable written request. Sublandlord covenants and agrees that it will not agree with Landlord to the cancellation or termination of the Master Lease or to the modification, annulment, or supplementation of the Master Lease in a manner that (a) would prevent, limit or otherwise adversely affect Subtenant's use of the Sublease Premises; (b) shorten the Term or increase the Rent payable by Subtenant under this Sublease; or (c) in any other way increase Subtenant's liability or decrease its rights under this Sublease.

14. Sublandlord's Right to Enter Secured Areas. All terms and conditions set forth in Section 4.9 of the Master Lease with respect to any Sublandlord entry into the Sublease Premises and tenant rights to maintain any "Secured Areas" will apply during the Term, as between Sublandlord and Subtenant.

15. Insurance. Subtenant will procure and maintain all insurance policies required to be procured and maintained by Sublandlord under Article 9 of the Master Lease with respect to the Sublease Premises. All such insurance policies will conform to the requirements of Article 9 of the Master Lease, and Subtenant will otherwise comply with the requirements of Article 9 of the Master Lease in connection therewith. Notwithstanding anything to the contrary in this Sublease, each party, for itself and, without affecting any insurance maintained by such party, on behalf of itself and its insurer, releases and waives any right to recover against the other party, including officers, employees, agents and authorized representatives (whether in contract or tort) of such other party, that arise or result from any and all loss of or damage to any property of the waiving party located within or constituting part of the Building, including the Sublease Premises to the extent of amounts payable under a standard ISO commercial property insurance policy or such additional coverage as the waiving party may carry (with a commercially reasonable deductible), whether or not due to the negligence of such other party and whether or not the party suffering the loss or damage actually carries any insurance, recovers under any insurance or self-insures the loss or damage. Because the foregoing waivers will preclude the assignment of any claim by way of subrogation to an insurance company or any other person, each party will immediately notify its insurer, in writing, of the terms of these mutual waivers and have its insurance policies endorsed to prevent the invalidation of the insurance coverage because of these waivers. This mutual waiver is in addition to any other waiver or release contained in this Sublease.

16. Disclosure. Pursuant to California Civil Code Section 1938, to Sublandlord's actual knowledge, the Sublease Premises have not undergone inspection by a "Certified Access Specialist" to determine whether the Sublease Premises meet all applicable construction-related accessibility standards under California Civil Code Section 55.53. The foregoing statement is included in this Lease solely for the purpose of complying with California Civil Code Section 1938 and will not in any manner affect any responsibilities of the parties for compliance with construction-related accessibility standards provided in this Sublease.

17. Indemnity.

a. Subtenant will defend (if required by Sublandlord and with counsel reasonably approved by Sublandlord), indemnify and hold Landlord, Sublandlord, its parent company, or any subsidiaries, related and affiliated companies of each, and the officers, directors, shareholders, agents, employees and assigns of each (collectively, "Sublandlord Parties"), harmless from and against any and

all claims, demands, suits, judgments, losses, expenses or costs of any nature whatsoever (including reasonable attorneys' fees) arising directly or indirectly, in whole or in part, from or out of: (a) the use or occupancy of the Sublease Premises by Subtenant during the Term; (b) personal injury or death to any person or damage to any property occurring within or about the Sublease Premises during the Term; (c) any act, error, or omission of Subtenant, its employees, agents or contractors or their respective officers, directors, agents, subcontractors, invitees or employees; and/or (d) any breach of Subtenant's representations, warranties or agreements as set forth herein; and/or (e) any other failure of Subtenant to comply with the obligation on its part to be performed hereunder. Notwithstanding the foregoing, Subtenant will not be required to indemnify Sublandlord for claims arising from the negligence or willful misconduct of Sublandlord Parties or Landlord. The provisions of this Section 17(a) will survive the expiration or early termination of this Sublease.

b. Sublandlord will defend (if required by Subtenant and with counsel reasonably approved by Subtenant), indemnify and hold Subtenant, its parent company, or any subsidiaries, related and affiliated companies of each, and the officers, directors, shareholders, agents, employees and assigns of each (collectively, "Subtenant Parties"), harmless from and against any and all claims, demands, suits, judgments, losses, expenses or costs of any nature whatsoever (including reasonable attorneys' fees) arising directly or indirectly, in whole or in part, from or out of (a) personal injury or death to any person or damage to any property occurring within or about the Sublease Premises prior to the Term; (b) any act, error, or omission of Sublandlord, its employees, agents or contractors or their respective officers, directors, agents, subcontractors, invitees or employees; (c) any breach of Sublandlord's representations, warranties or agreements as set forth herein; and/or (d) any other failure of Sublandlord to comply with the obligations on its part to be performed hereunder. The provisions of this Section 17(b) will survive the expiration or early termination of this Sublease.

18. Default by Subtenant; Remedies.

a. Any one or more of the following events will constitute a default (a "Default") by Subtenant under this Sublease:

i. If Sublandlord fails to receive any payment of Rent within three (3) business days after such payment of Rent is due;

ii. If Subtenant violates or breaches or fails fully and completely to observe, keep, satisfy, perform and comply with, any agreement, term, covenant, condition, requirement, restriction or provision of this Sublease (other than the payment of Rent), and Subtenant does not cure such failure within thirty (30) days after Sublandlord gives Subtenant written notice thereof, or, if such failure is incapable of cure within thirty (30) days, if Subtenant does not commence to cure such failure within such thirty (30) day period and continuously prosecute the performance of the same to completion with due diligence;

iii. If Subtenant makes a general assignment for the benefit of its creditors, if the liquidation of Subtenant occurs, if any action or proceeding is commenced by Subtenant under any insolvency or bankruptcy act or under any other statute or regulation for protection from creditors, or if any such action is commenced against Subtenant and not discharged within thirty (30) days after the date of commencement; if a receiver or trustee is employed or appointed to take possession of all or substantially all of Subtenant's assets or the Sublease Premises; if the attachment, execution or other judicial seizure of all or substantially all of Subtenant's assets or the Sublease Premises occurs, if such attachment or other seizure remains undismissed or undischarged for a period of ten (10) days after the levy thereof; if Subtenant admits in writing of its inability to pay its debts as they become due; or if Subtenant files a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future statute, law or regulation, if Subtenant files an answer admitting or if Subtenant fails timely to contest a material allegation of a petition filed against Subtenant in any such proceeding or, if within thirty (30) days after the commencement of any such proceeding against Subtenant, such proceeding is not dismissed. For purposes of this Section, "Subtenant" means Subtenant and any partner of Subtenant, if Subtenant is a partnership, or any person or entity comprising Subtenant, if Subtenant is comprised of more than one person or entity, or any guarantor of Subtenant's obligations, or any of them, under this Sublease;

Subtenant; or

iv. If any breach or default occurs under the Master Lease (beyond any applicable notice and cure period) solely attributable to an act or omission of

v. If Subtenant abandons the Sublease Premises before the expiration of the Term without the prior written consent of Sublandlord and without paying Rent as the same is due and payable pursuant to this Sublease.

b. Upon the occurrence of any Default, in addition to any and all rights available to Sublandlord at law or in equity, Sublandlord may exercise any and all rights and remedies against or with respect to Subtenant which Landlord may exercise for any breach or default by Sublandlord under the Master Lease.

19. Quiet Enjoyment. So long as Subtenant pays all of the Rent due hereunder and performs all of Subtenant's other obligations hereunder, and subject to the other terms of this Sublease, Sublandlord will do nothing to affect Subtenant's right to peaceably and quietly have, hold and enjoy the Sublease Premises.

20. Notices. Anything contained in any provision of this Sublease to the contrary notwithstanding, Subtenant agrees, with respect to the Sublease Premises, to comply with and remedy any Default or default under the Master Lease which is Subtenant's obligation to cure pursuant to this Sublease, within the period allowed to Sublandlord under the Master Lease, even if such time period is shorter than the period otherwise allowed therein due to the fact that notice of default from Sublandlord to Subtenant is given after the corresponding notice of default from Landlord to Sublandlord, provided that Sublandlord provides Subtenant with a copy of the corresponding notice of default from Landlord to Sublandlord within one (1) business day after Sublandlord's receipt thereof. Subtenant agrees to forward to Sublandlord, promptly upon receipt thereof, copies of any notices, demands, statement or other communications received by Subtenant from Landlord or from any governmental authorities. All notices, demands, statements or other communications required or permitted to be served or given by either party to the other (each, a "Notice") will be in writing, will be addressed to the receiving party/parties at the address(es) set forth below (or to such other person(s) and/or place(s) as either party may from time to time designate in a Notice given to the other party pursuant to the terms hereof), and will be delivered by any of the following means: (a) personal delivery; (b) overnight delivery by any reputable, nationally recognized overnight courier service (including, without limitation, Federal Express, DHL and/or UPS); (c) registered or certified United States mail with return receipt requested; or (d) email, in which case the actual notice will be executed and sent as an attachment to the electronic mail transmission, and the subject line of the electronic mail transmission will include the words "LEGAL NOTICE" in all capital letters. In the event of delivery or attempted delivery by any of the means described in the foregoing subparagraphs (a) through (c), inclusive, delivery will be deemed to have occurred upon the earlier to occur of (i) actual delivery to any intended recipient, (ii) refusal of any intended recipient to accept delivery, or (iii) attempted delivery if none of the intended recipients are located at the address(es) provided for such Notice purposes. In the event of delivery or attempted delivery by means of email, delivery will be deemed to have occurred upon the sender's receipt of confirmation that any recipient opened and/or read the email (whether by receipt of a formal confirmation of such fact via the sender's email application, or by alternative communications confirming or implying such opening and/or reading).

Notices to Sublandlord will be sent to:

Forescout Technologies, Inc.
2400 Dallas Parkway
Plano TX 75093
Attention: Amanda Barry, Kathy Tyra
Email: [***], [***]

Notices to Subtenant will be sent to:

Archer Aviation Inc.
1880 Embarcadero Rd

Palo Alto CA 94303
Attention: Legal
Email: [***]

21. Broker. Subtenant hereby represents to Sublandlord that Subtenant has used only Newmark as a broker in connection with the negotiation or consummation of this Sublease. Sublandlord hereby represents to Subtenant that Sublandlord has used only Cushman & Wakefield ("CW") as a broker in connection with the negotiation or consummation of this Sublease. Sublandlord will pay Newmark and CW any amounts owed pursuant to a separate written agreement. Each party will indemnify and hold harmless the other party for any and all costs incurred by such party as a result of a breach by the indemnifying party of the foregoing representation (including attorneys' fees, court costs and any commissions, if ultimately owed).

22. Condition of Sublease Premises; Alterations; Surrender.

a. Sublease Premises As-Is. Subtenant acknowledges that it is subleasing the Sublease Premises and accepting same in its "AS-IS WHERE-IS WITH ALL FAULTS" condition (including any and all latent or undisclosed defects) and that, except as expressly set forth herein, Sublandlord is not making any representation or warranty (express or implied) concerning the condition of the Sublease Premises (including, without limitation, any representation or warranty regarding use, fitness for a particular purpose or use, habitability or condition) and that Sublandlord is not obligated to perform any construction, repairs, alterations or additions thereto to prepare the Sublease Premises for Subtenant's use and occupancy. Subtenant further takes and accepts the Sublease Premises subject to all matters to which the Sublease Premises is subject under the Master Lease, including, without limitation: (i) all easements, restrictions, conditions, reservations, limitations and other matters of record; (ii) all taxes and assessments for the current calendar year and subsequent years; (iii) all applicable zoning ordinances and building codes; and (iv) all encroachments, overlaps, boundary line disputes or other matters which would be disclosed by an accurate survey and inspection of the Sublease Premises or the Building.

b. Alterations and Improvements. Subtenant will not make any alterations or improvements in or to the Sublease Premises without (i) Sublandlord's prior written consent, not to be unreasonably withheld, conditioned, or delayed; and (ii) without the prior written consent of Landlord to the extent required under, and in accordance with, the terms of the Master Lease; provided, however, that Subtenant will have the right, from time-to-time, without Sublandlord's consent, to (a) remove from the Sublease Premises and replace its movable furniture, equipment, trade fixtures, artwork, and other personal property, and (b) make Minor Alterations (as defined in the Master Lease). Any alterations or improvements installed or made to the Sublease Premises, including, but not limited to, wall covering, paneling and built-in cabinet work, but excepting movable furniture, equipment, trade fixtures, artwork, and other personal property of Subtenant, will at once become a part of the realty and belong to Sublandlord and will be surrendered with the Sublease Premises unless Sublandlord requires the removal of such items at the end of the Term. Subtenant will not be permitted to install or place or permit any landscaping, planters, lighting, art work, posters or other displays in any windows or any exterior balcony or patio or any other location visible from the exterior of the Building without Sublandlord's prior written consent in each instance (which consent may be granted or withheld in Sublandlord's sole discretion). Subtenant will not install any exterior lighting, amplifiers or similar devices (including, but not limited to, flashing lights, searchlights, loudspeakers, phonographs) which may be heard or seen outside the Sublease Premises without Sublandlord's prior written consent in each instance (which consent may be granted or withheld in Sublandlord's sole discretion). When requesting consent for any alterations or improvements, Subtenant will, if requested by Sublandlord, furnish complete plans and specifications ("Plans") for such alterations and improvements. If Sublandlord consents to the making of any alterations or improvements to the Sublease Premises by, for, or on behalf of Subtenant, the same will be made by Subtenant at Subtenant's sole cost and expense, in a good and workmanlike manner and in compliance with all Laws using a contractor and subcontractors reasonably approved in advance by Sublandlord. All alterations or improvements proposed by Subtenant will be constructed in accordance with all Laws and in compliance with any applicable provisions of the Master Lease, including, without limitation, all requirements with respect to insurance, required documentation, and removal of liens. Subtenant will pay any increase in real estate taxes attributable to any such alterations or improvements for so long, during the Term, as such

increase is ascertainable; at Sublandlord's election said sums will be paid in the same manner and time as Rent is payable pursuant to this Sublease. Sublandlord will have a period of ten (10) calendar days following receipt of Subtenant's Plans to approve or disapprove such Plans by written notice to Subtenant. Should Sublandlord fail to provide written notice of any disapproval within such ten (10) calendar day period, Subtenant's Plans and the proposed alterations reflected therein will be deemed approved by Sublandlord, subject to any required approval thereof by Landlord pursuant to the Master Lease. Additionally, within two (2) business days after receipt of Subtenant's Plans, Sublandlord will forward such Plans to Landlord for review and approval of any alterations therein requiring Landlord's approval under the Master Lease, and Sublandlord will thereafter use commercially reasonable to obtain Landlord's approval of such Plans.

c. Surrender. Upon the expiration or earlier termination of this Sublease, Subtenant must (i) remove from the Sublease Premises all of its personal property and trade fixtures, cabling and any improvements and/or alterations required to be removed pursuant to Section 22(b) and repair all damage caused thereby and restore the Sublease Premises to the condition it was in prior to such installation and (ii) deliver the Sublease Premises (and all keys thereto) to Sublandlord broom-clean and in good order and repair (reasonable wear and tear excepted) and otherwise in the condition required by the Master Lease (provided that in no event will Subtenant be required to perform any restoration, repair or removal work required under the Master Lease with respect to the condition of the Sublease Premises prior to the Delivery Date or with respect to any alterations, modifications, additions or other improvements (except with respect to any cabling installed by Subtenant) that were not made, provided, or installed by Subtenant). Subtenant acknowledges and agrees that possession of the Sublease Premises must be surrendered to Sublandlord at the expiration or sooner termination of the Term. Subtenant agrees it will indemnify and save Sublandlord harmless against all costs, claims, loss or liability resulting from delay by Subtenant in so surrendering the Sublease Premises, including, without limitation, any claims made by any succeeding subtenant or occupant founded on such delay. The parties agree that the damage to Sublandlord resulting from any failure by Subtenant to surrender possession of the Sublease Premises on a timely basis as aforesaid will be extremely substantial, will exceed the amount of Rent theretofore payable hereunder, and will be impossible to accurately measure. Subtenant therefore agrees that if possession of the Sublease Premises is not surrendered to Sublandlord on the Sublease Expiration Date or earlier termination of the Term as required under this Sublease and the Master Lease, then Subtenant agrees to pay to Sublandlord as holdover rent for each month and for each portion of any month during which Subtenant holds over in the Sublease Premises after the expiration or earlier termination of the Term, a sum equal to the greater of (i) one hundred fifty percent (150%) of the Base Rent which was otherwise payable for such period or (ii) any and all charges incurred by Sublandlord under the Master Lease. Nothing contained herein will be deemed to authorize Subtenant to remain in occupancy of the Sublease Premises after the expiration or earlier termination of this Sublease. The indemnity provisions contained in this subsection will survive the expiration or earlier termination of this Sublease.

d. Termination of the Master Lease. If for any reason the Master Lease terminates prior to the Sublease Expiration Date, this Sublease will automatically terminate, and Sublandlord will not be liable to Subtenant by reason thereof unless said termination will have been caused by the default of Sublandlord under the Master Lease, and said Sublandlord default was not as a result of a Default, and in such event Sublandlord will be liable for any and all damages, costs, expenses, and fees that Subtenant incurs as a result of such early termination.

23. Assignment and Subletting.

a. Restrictions Generally. Subtenant will not, directly or indirectly, voluntarily or by operation of law, sell, assign, sublet, encumber, pledge, or otherwise transfer or hypothecate all or any part of the Sublease Premises or Subtenant's interest therein, or permit the Sublease Premises to be occupied or used by anyone other than Subtenant (each a "Transfer", and collectively, "Transfers"), without the prior written consent of Sublandlord and Landlord, which consent may not be unreasonably withheld, conditioned, or delayed. Subtenant will be solely responsible, at Subtenant's sole cost and expense, for obtaining Landlord's consent in connection with a Transfer, and Subtenant will comply with, and be subject to, all of the terms and conditions of Article 7 of the Master Lease applicable to proposed Transfers.

b. Profits Resulting from a Transfer. If, as a result of any Transfer by Subtenant, Subtenant receives any monies which, in Subtenant's hands, would be considered Excess Rent (as defined under the Master Lease), assuming that said definition is applied to Subtenant in its circumstances under this Sublease, as opposed to Sublandlord in its circumstances under the Master Lease (such Transfer Premium received by Subtenant being a "Subtenant Transfer Premium"), then fifty percent (50%) of said Subtenant Transfer Premium received by Subtenant will be paid by Subtenant to Sublandlord, after Subtenant deducts all Permitted Transfer Costs (as defined in the Master Lease) therefrom. All Subtenant Transfer Premium to be paid to Sublandlord hereunder will be paid by Subtenant to Sublandlord as additional Rent promptly upon receipt thereof.

c. Liability of Subtenant; Further Transfers. No Transfer hereunder by Subtenant will result in Subtenant being released or discharged from any liability under this Sublease. No consent by Landlord or Sublandlord to any Transfer of the Sublease Premises by Subtenant will be deemed to be a consent to any other Transfer of the Sublease Premises as such requirement is stated herein.

d. Permitted Transfers. Provided that no Default is continuing and subject to the terms and conditions of Section 7.10.2 of the Master Lease, Subtenant may, without Sublandlord's consent but upon ten (10) business days' prior written notice to Sublandlord, assign or transfer this Sublease (i) in connection with the transfer or issuance of stock in Subtenant; or (ii) to (1) an Affiliate (as defined in the Master Lease) of Subtenant; (2) a successor to Subtenant by merger, consolidation, or reorganization; or (3) a successor to Subtenant by purchase of all or substantially all of Subtenant's assets.

24. Hazardous Materials. Subtenant will abide by and observe all terms and conditions in connection with the handling, transportation, storage, treatment, disposal, or use of hazardous materials within the Sublease Premises or at the Project which are specified under Section 4.12 of the Master Lease; provided, however, in no event will Subtenant be liable for in any way (including, without limitation, any indemnification obligations or obligations to investigate or remediate) any Hazardous Materials not introduced to the Project by Subtenant or its agents, employees or contractors.

25. Signage. Subtenant, at Subtenant's sole cost and expense, will be permitted the same rights with respect to signage as those rights held by Sublandlord under the Master Lease but subject to the terms and conditions of the Master Lease. Subtenant, at Subtenant's sole cost and expense, will be solely responsible for the maintenance and repair of any signage installed by Subtenant and will remove such signage at the expiration or earlier termination of this Sublease and repair any damage caused to the Building as a result of such removal. Sublandlord will remove all of its signage from the Sublease Premises and the Building prior to the Delivery Date.

26. Limitation of Estate. Subtenant's estate will in all respects be limited to, and be construed in a fashion consistent with, the estate granted to Sublandlord by Landlord. To the extent of Subtenant's obligations hereunder, Subtenant will stand in the place of Sublandlord and will defend, indemnify and hold Sublandlord harmless with respect to all covenants, warranties, obligations, and payments made by Sublandlord under or required of Sublandlord by the Master Lease with respect to the Sublease Premises. In the event Sublandlord is prevented from performing any of its obligations under this Sublease by a breach by Landlord of a term of the Master Lease, then Sublandlord's sole obligation in regard to its obligation under this Sublease will be to use reasonable efforts in diligently pursuing the correction or cure by Landlord of Landlord's breach.

27. Force Majeure. The period of time during which either party is prevented from performing any non-monetary obligations required to be performed pursuant to this Sublease by events beyond the reasonable control of such party will be added to the time for performance of such acts.

28. Further Assurances. Each party to this Sublease will at its own cost and expense, execute and deliver such further documents and instruments and will take such other actions as may be reasonably required to evidence or carry out the intent and purposes of this Sublease.

29. Time of the Essence. Time is of the essence with respect to each and every obligation of Subtenant hereunder.

30. Governing Law. This Sublease will be governed by, and construed in accordance with, the laws of the State of California, without regard to conflicts of law principles.

31. Severability. If any term or provision of this Sublease is held to be invalid or unenforceable to any extent, the remainder of this Sublease will not be affected, and each term or provision of this Sublease will be valid and will be enforced to the fullest extent permitted by Laws. If the application of any term or provision of this Sublease to any person or circumstance is held to be invalid or unenforceable, the application of that term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable will not be affected, and such term or provision will be valid and will be enforced to the fullest extent permitted by Laws.

32. Authority. Sublandlord and Subtenant warrant to each other that all necessary corporate actions have been duly taken to permit Sublandlord and Subtenant, respectively, to enter into this Sublease and that each undersigned officer has been duly authorized and instructed to execute this Sublease.

33. Entire Agreement. It is understood and acknowledged that there are no oral agreements between the parties hereto affecting this Sublease, and this Sublease supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto or displayed by Sublandlord to Subtenant with respect to the subject matter thereof, and none thereof will be used to interpret or construe this Sublease. This Sublease, and the exhibits and schedules attached hereto, contain all of the terms, covenants, conditions, warranties, and agreements of the parties relating in any manner to the rental, use, and occupancy of the Sublease Premises and will be considered to be the only agreements between the parties hereto and their representatives and agents. None of the terms, covenants, conditions or provisions of this Sublease may be modified, deleted, or added to except in writing signed by the parties hereto. All negotiations and oral agreements acceptable to both parties have been merged into and are included herein. There are no other representations or warranties between the parties, and all reliance with respect to representations is based upon the representations and agreements contained in this Sublease. The headings and subheadings of the sections of this Sublease are inserted for convenience of reference only and will not control or affect the meaning or construction of any of the agreements, terms, covenants, and conditions of this Sublease in any manner.

34. Successors and Assigns. All covenants, promises, conditions, representations, and agreements herein contained will be binding upon, apply, and inure to the parties hereto and their respective heirs, executors, administrators, successors, and permitted assigns.

35. Counterparts. This Sublease may be executed in any number of duplicate counterparts, each of which, when executed, will be an original, and all of which together will constitute one and the same document.

36. Electronic Signatures. Each of the parties to this Sublease (a) has agreed to permit the use from time to time, where appropriate, of telecopy or other electronic signatures (including, without limitation, DocuSign, and .pdf) in order to expedite the transaction contemplated by this Sublease; (b) intends to be bound by its respective telecopy or other electronic signature; (c) is aware that the other will rely on such telecopied or other electronically transmitted signature; and (d) acknowledges such reliance and waives any defenses to the enforcement of this Sublease and the documents affecting the transaction contemplated by this Sublease based on the fact that a signature was sent by telecopy or electronic transmission only.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have entered into this Sublease as of the Effective Date.

SUBLANDLORD:

FORESCOUT TECHNOLOGIES, INC.,
a Delaware corporation

By: /s/ Amanda Barry
Name: Amanda Barry
Title: General Counsel

SUBTENANT:

ARCHER AVIATION INC.,
a Delaware corporation

By: /s/ Adam Goldstein
Name: Adam Goldstein
Title: Co-CEO

Signature Page to Sublease

EXHIBIT A
COPY OF THE MASTER LEASE

[Attached]

Exhibit A

EXHIBIT B
DEPICTION OF THE SUBLEASE PREMISES

Exhibit B

EXHIBIT C
INTENTIONALLY OMITTED

Exhibit C

EXHIBIT D
BILL OF SALE

Exhibit D

EXHIBIT E
COMMENCEMENT DATE AGREEMENT

Exhibit E

EXHIBIT F
LANDLORD'S RULES AND REGULATIONS

Exhibit F

January 18, 2022

Ben Lu

Re: Terms of Separation

Dear Ben:

This letter confirms the agreement (“**Agreement**”) between you and Archer Aviation, Inc. (the “**Company**”) concerning the terms of your separation and offers you the separation consideration we discussed in exchange for a general release of claims.

1. Separation Date: January 21, 2022 is your last day of employment with the Company (the “**Separation Date**”). The parties hereby agree that you will resign your position as Chief Financial Officer, effective as of the Separation Date.
 2. Acknowledgment of Payment of Wages: By your signature below, you acknowledge that on January 21, 2022 we will provide you one or more final paychecks for all wages, salary, bonuses, reimbursable expenses previously submitted by you, accrued vacation (if applicable) and any similar payments due you from the Company as of the Separation Date. By signing below, you acknowledge that the Company does not owe you any other amounts. Please promptly submit for reimbursement all final outstanding expenses, if any.
 3. Separation Consideration: In exchange for your agreement to the general release and waiver of claims set forth below and your other promises herein, the Company agrees to provide you with the following:
 - a. Severance: The Company agrees to pay you, within ten (10) business days following the Effective Date (as defined below) of this Agreement, a lump sum payment in the gross amount of \$250,000, less applicable state and federal payroll deductions, which equals six (6) months of your base salary.
 - b. COBRA: Upon your timely election to continue your existing health benefits under COBRA, and consistent with the terms of COBRA and the Company’s health insurance plan, the Company will pay the insurance premiums to continue your existing health benefits for six (6) months following the Separation Date. You will remain responsible for, and must continue to pay, the portion of premiums, co-payments, etc. that you would have paid had your employment continued.
 - c. Unearned Bonus: The Company agrees to pay you, within ten (10) business days following the Effective Date (as defined below) of this Agreement, a lump sum payment in the amount of \$105,769, less applicable state and federal payroll deductions, which equals your unearned prorated 2021 discretionary performance-based bonus payment, to which you would not otherwise be entitled.
 - d. Partial Acceleration of RSUs: The Company agrees to partially accelerate the vesting of your Unvested RSUs (as defined below), as described in Section 6.
-

By signing below, you acknowledge that you are receiving the separation consideration outlined in this section in consideration for waiving your rights to claims referred to in this Agreement and that you would not otherwise be entitled to the separation consideration.

4. Return of Company Property: You hereby warrant to the Company that you have returned to the Company all property or data of the Company of any type whatsoever that has been in your possession or control.

5. Post-Employment Obligations: You hereby acknowledge that: (a) you continue to be bound by the attached Employee Proprietary Information and Arbitration Agreement (the “**Confidentiality Agreement**”) (Exhibit 1 hereto); (b) as a result of your employment with the Company, you have had access to the Company’s proprietary and/or confidential information, and you will continue to hold all such information in strictest confidence and not make use of it on behalf of anyone; (c) you must, and by your signature below confirm that you shall deliver to the Company, no later than the Separation Date, all documents and data of any nature containing or pertaining to such information, and not take with you, or otherwise retain in any respect, any such documents or data or any reproduction thereof; and (d) you have signed and agree to be bound by the Archer Aviation Termination Certification attached as Exhibit C to the Confidentiality agreement.

6. Restricted Stock:

a. Pursuant to that certain Global RSU Award Agreement between you and the Company dated December 8, 2021 and the Company’s 2021 Equity Incentive Plan (the “**Equity Agreements**”), you were awarded 600,000 restricted stock units (“**RSUs**”), which are subject to vesting. As of the Separation Date, none of the RSUs have vested and all 600,000 RSUs remain unvested (the “**Unvested RSUs**”). Because your employment is terminating on the Separation Date, none of the Unvested RSUs can ever vest and will be forfeited.

b. *However, if you execute this Agreement and it becomes effective on its terms*, the Company agrees to, and hereby does, accelerate the vesting of 100,000 Unvested RSUs, such that, on the Effective Date (as defined below), 100,000 of the Unvested RSUs will have vested (the “**Accelerated RSUs**”) and 500,000 RSUs will remain unvested and will be forfeited.

c. The Equity Agreements are hereby amended consistent with this Agreement. Your rights concerning the Accelerated RSUs will continue to be governed by the Equity Agreements, as amended herein.

7. General Release and Waiver of Claims:

a. The payments and promises set forth in this Agreement are in full satisfaction of all accrued salary, vacation pay, bonus and commission pay, profit-sharing, stock, stock options, RSUs, or other ownership interest in the Company, termination benefits or other compensation to which you may be entitled by virtue of your employment with the Company or your separation from the Company. To the fullest extent permitted by law, you hereby release, waive, and agree not to assert, any other claims you may have against the Company and its owners, agents, officers, shareholders, employees, directors, attorneys, subscribers, subsidiaries, affiliates, successors and assigns (collectively “**Releasees**”), whether known or not known, including, without limitation, claims under any employment laws, including, but not limited to, claims of unlawful discharge, breach of contract, breach of the covenant of good faith and fair dealing, fraud, violation of public policy, defamation, physical injury, emotional distress, claims

for additional compensation or benefits arising out of your employment or your separation of employment, claims under Title VII of the 1964 Civil Rights Act, as amended, the California Fair Employment and Housing Act and any other laws and/or regulations relating to employment or employment discrimination, including, without limitation, claims based on age or under the Age Discrimination in Employment Act or Older Workers Benefit Protection Act, and/or claims based on disability or under the Americans with Disabilities Act.

- b. By signing below, you expressly waive any benefits of Section 1542 of the Civil Code of the State of California, which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

- c. You and the Company do not intend to release claims that you may not release as a matter of law, including but not limited to claims for indemnity under California Labor Code Section 2802, or any claims for enforcement of this Agreement. To the fullest extent permitted by law, any dispute regarding the scope of this general release shall be determined by an arbitrator under the procedures set forth in the arbitration clause below.

8. **Protected Rights:** You understand that nothing in the General Release and Waiver of Claims section above, or otherwise in this Agreement, limits your ability to file a charge or complaint with the Equal Employment Opportunity Commission, the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission or any other federal, state or local government agency or commission (“**Government Agencies**”). You further understand that this Agreement does not limit your ability to communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information, without notice to the Company. This Agreement does not limit your right to receive an award for information provided to any Government Agencies.

9. **Non-disparagement:** You agree that you will not, directly or indirectly, disparage or make negative remarks regarding Releasees or their products, services, agents, representatives, directors, officers, shareholders, attorneys, employees, vendors, affiliates, successors or assigns, or any person acting by, through, under or in concert with any of them, with any written or oral statement, including, but not limited to, any statement posted on social media (including online company review sites) or otherwise on the Internet, whether or not made anonymously or with attribution. The Company agrees to instruct its current officers and directors, for so long as they are employed by or providing board service to the Company, not to disparage you with any written or oral statement. Nothing in this section shall prohibit you or the Company (including its current officers and directors) from providing truthful information in response to a subpoena or other legal process. Further, nothing in this Agreement prevents you from discussing or disclosing information about unlawful acts in the workplace, such as harassment or discrimination or any other conduct that you have reason to believe is unlawful.

10. **Arbitration:** Except for any claim for injunctive relief arising out of a breach of a party’s obligations to protect the other’s proprietary information, the parties agree to arbitrate, in Santa Clara County, California through the American Arbitration Association (AAA), any and

all disputes or claims arising out of or related to the validity, enforceability, interpretation, performance or breach of this Agreement, whether sounding in tort, contract, statutory violation or otherwise, or involving the construction or application or any of the terms, provisions, or conditions of this Agreement. Any arbitration may be initiated by a written demand to the other party. The arbitrator's decision shall be final, binding, and conclusive. The parties further agree that this Agreement is intended to be strictly construed to provide for arbitration as the sole and exclusive means for resolution of all disputes hereunder to the fullest extent permitted by law. The parties expressly waive any entitlement to have such controversies decided by a court or a jury.

11. Attorneys' Fees: If any action is brought to enforce the terms of this Agreement, the prevailing party will be entitled to recover its reasonable attorneys' fees, costs and expenses from the other party, in addition to any other relief to which the prevailing party may be entitled.

12. Confidentiality: The contents, terms and conditions of this Agreement must be kept confidential by you and may not be disclosed except to your immediate family, accountant or attorneys or pursuant to subpoena or court order. You agree that if you are asked for information concerning this Agreement, you will state only that you and the Company reached an amicable resolution of any disputes concerning your separation from the Company. Any breach of this confidentiality provision shall be deemed a material breach of this Agreement.

13. No Admission of Liability: This Agreement is not and shall not be construed or contended by you to be an admission or evidence of any wrongdoing or liability on the part of Releasees, their representatives, heirs, executors, attorneys, agents, partners, officers, shareholders, directors, employees, subsidiaries, affiliates, divisions, successors or assigns. This Agreement shall be afforded the maximum protection allowable under California Evidence Code Section 1152 and/or any other state or federal provisions of similar effect.

14. Complete and Voluntary Agreement: This Agreement, together with Exhibit 1 hereto and its executed Exhibit C, and the Equity Agreements, constitute the entire agreement between you and Releasees with respect to the subject matter hereof and supersedes all prior negotiations and agreements, whether written or oral, relating to such subject matter. You acknowledge that neither Releasees nor their agents or attorneys have made any promise, representation or warranty whatsoever, either express or implied, written or oral, which is not contained in this Agreement for the purpose of inducing you to execute the Agreement, and you acknowledge that you have executed this Agreement in reliance only upon such promises, representations and warranties as are contained herein, and that you are executing this Agreement voluntarily, free of any duress or coercion.

15. Severability: The provisions of this Agreement are severable, and if any part of it is found to be invalid or unenforceable, the other parts shall remain fully valid and enforceable. Specifically, should a court, arbitrator, or government agency conclude that a particular claim may not be released as a matter of law, it is the intention of the parties that the general release and waiver of unknown claims above shall otherwise remain effective to release any and all other claims.

16. Modification; Counterparts; Electronic/PDF Signatures: It is expressly agreed that this Agreement may not be altered, amended, modified, or otherwise changed in any respect except by another written agreement that specifically refers to this Agreement, executed by authorized representatives of each of the parties to this Agreement. This Agreement may be executed in any number of counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Execution of an electronic or PDF

copy shall have the same force and effect as execution of an original, and a copy of a signature will be admissible in any legal proceeding as if an original.

17. Review of Separation Agreement; Expiration of Offer: You understand that you may take up to twenty-one (21) days to consider this Agreement (the “*Consideration Period*”). The offer set forth in this Agreement, if not accepted by you before the end of the Consideration Period, will automatically expire. By signing below, you affirm that you were advised to consult with an attorney prior to signing this Agreement. You also understand you may revoke this Agreement within seven (7) days of signing this document and that the separation consideration to be provided to you pursuant to Section 3 will be provided only after the expiration of that seven (7) day revocation period.

18. Effective Date: This Agreement is effective on the eighth (8th) day after you sign it and without revocation by you (the “*Effective Date*”).

19. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of California.

If you agree to abide by the terms outlined in this Agreement, please sign and return it to me. I wish you the best in your future endeavors.

Sincerely,

Archer Aviation, Inc.

By: /s/ Tosha Perkins
Tosha Perkins, Chief People Officer

READ, UNDERSTOOD AND AGREED

/s/ Ben Lu Date: 01/19/2022
Ben Lu

EXHIBIT 1

Employee Proprietary Information and Arbitration Agreement

ARCHER

Dear Mark,

On behalf of Archer Aviation Inc. (the “Company”), we are delighted to offer you a full time position within our organization. This letter outlines the terms of the offer:

Title	Chief Financial Officer
Target Start Date	Monday, February 7, 2022
Office Policy	In accordance with state and local regulations, Archer’s Bay Area offices are now back open. Local employees have transitioned back into the office, and employees relocating to the San Francisco Bay Area are expected to be onsite at our offices there within 90 days of the start of your employment (“Bay Area Start Date”).
Salary	\$500,000 annually, payable in semi-monthly installments less applicable federal and state tax withholdings and payroll deductions, subject to periodic review and adjustment in Archer’s discretion. Archer will make future adjustments in compensation plan structure if any in its sole and absolute discretion.
Annual Performance Bonus	\$250,000 (“Bonus Amount”) Archer will pay you a bonus in the amount of up to \$250,000 (the “Bonus Amount”), subject to the achievement of certain Company performance objectives (as determined by the Board of Directors) and individual performance goals (as determined by your manager). You may elect whether to receive the Bonus Amount in cash or in Archer Class A common stock (“Common Stock”) by written notice to the Company no later than ninety (90) days prior to the end of the calendar year for which such Bonus Amount is due. If you elect to receive the Bonus Amount in cash, the amount due will be paid no later than the second pay period in the calendar year following the calendar year in which the Bonus Amount was earned.

If you elect to receive the Bonus Amount in Common Stock, you will receive a grant equal to the number of shares of Common Stock determined by dividing the Bonus Amount by the closing price of the Common Stock on the date of grant. The Company will make such grant during its first open trading window of the calendar year following the year in which the Bonus Amount was earned (typically late February or early March). You will be solely responsible for all taxes due and payable in respect of such grant of Common Stock.

The bonus will be prorated based on the start date of your employment. Furthermore, all equity awards are contingent and issued only upon approval by the Board, and are subject to the terms and conditions of applicable equity incentive plan documents and award documents. Should either party terminate employment, or give notice of same, before the grant date, this annual performance bonus shall not be issued.

Sign-On Equity

Award Amount: \$4,000,000

Upon approval by the Company's Board of Directors (the "Board"), you will receive a one-time grant of restricted stock units ("RSUs" or "Award"). At the time of vesting, the vested number of RSUs will become earned and will convert to shares of Archer Aviation, Inc.'s Class A Common Stock (NYSE: ACHR) upon settlement.

This Award will entitle you to that number of RSUs determined by dividing the Award Amount by the average closing price of the Class A Common Stock during the entire calendar month in which your employment at the company starts, rounded up to the nearest full share. For instance, if your employment at the company starts January 10th, your average closing price is calculated across the entire calendar month of January (i.e. all trading days between January 1st and January 31st).

The Award will vest at the rate of 25% of the total number of shares subject to the Award on the Quarterly Vest Date (expected to be February 15th, May 15th, August 15th and November 15th of each year (each, a "Quarterly Vest Date")) that occurs after the one-year anniversary of the start of your employment with the Company, and an additional 1/16th of the total number of shares on each Quarterly Vest Date thereafter until fully vested.

This Award and all future equity awards are contingent and issued only upon approval by the Board, and are subject to the terms and conditions of applicable equity incentive plan documents and award documents. Vesting in RSUs is contingent on continued employment on the applicable vesting dates. Further details on the RSUs will be available to you shortly after your start of employment.

Please be aware that the Company makes no representation or guarantee about the future value of the Award or the Class A Common Stock underlying the Award.

Benefits

Healthcare

As a full-time employee, you are eligible to participate in the Company's group health insurance and other employee benefit plans and programs that are generally made available to our employees, subject to eligibility requirements, enrollment criteria, and the other terms and conditions of such plans and programs. The Company reserves the right to amend, modify, or rescind any employee benefit plan or program and/or change employee contribution amounts to benefit costs without notice at its discretion. Healthcare will enroll at the start of every month (i.e. if you start on June 15th, you won't be enrolled into healthcare until July 1st).

401(k)

As a full-time employee, you are eligible to participate in the Company's 401(k) benefit plan. The Company will match 50% of every dollar up to the maximum amount of employee contribution.

Google Drive: [Healthcare & 401\(k\) information can be found here.](#)

Learning & Development Policy

Archer believes that effective learning and development ("L&D") benefits the individual employee, as well as the company as a whole, to achieve our mission. Archer encourages our employees to enhance knowledge and skills in their respective fields, and recognizes that this may mean taking classes or attending seminars, conferences, and workshops. As a result, Archer offers all employees a license for unlimited digital learning and development.

Vacation Policy

As a full-time exempt employee, you are eligible for unlimited paid time off (PTO). Requests must be approved by your manager.

Parental Leave

Once you have at least six (6) months of continuous service, you will be eligible for up to twelve (12) weeks of paid parental leave. The leave must be taken within the first twelve (12) months after the birth, adoption, or placement of the child(ren). You will continue to receive 100% of your base salary from Archer while out on Paid Parental Leave minus any applicable federal, state, and local taxes.

Severance

Archer is developing a severance plan for senior executives. Subject to approval of the plan by Archer's Board of Directors, you will be eligible to enter into a Change in Control and Severance Agreement (the "Severance Agreement") applicable to you based on your position within the Company. Any Severance Agreement will become effective as of your Start Date (the "Effective Date"). The Severance Agreement will specify the severance payments and benefits you may become entitled to receive in connection with a qualifying termination in connection with a change in control of the Company (which the Company anticipates will include salary continuation and acceleration of a portion of your unvested equity), as well as certain qualifying terminations of your employment with the Company outside of a change in control (which the Company anticipates will include salary continuation and acceleration of unvested equity through the salary continuation period).

At-Will Employment and Termination

Employment at the Company is “at will.” This means that you may resign from the Company at any time for any or no reason and the Company has the right to terminate this employment relationship with or without cause at any time. We request, however, that in the event of resignation, you give the Company at least two weeks’ notice. Neither this letter nor any other communication, either written or oral, should be construed as a contract of employment for a given length of time or term.

You further acknowledge that the Company may modify job titles, salaries, equity award entitlements, and benefits from time to time as it deems necessary.

Proprietary Information and Arbitration Agreement

Like all Company employees, you will be required to sign, as a condition of your employment with the Company, the Company’s standard employee Proprietary Information and Arbitration Agreement (the “Proprietary Agreement”). We encourage you to read this document carefully, and to seek independent legal counsel if you have any questions about the meaning or scope of these requirements. Please note that we must receive your signed Confidentiality Agreement before your first day of employment.

Pre-Hire Checklist Agreement

You will be required to sign, as a condition of your employment with the Company, the Company’s standard pre-hire checklist (the “Pre-hire Checklist Agreement”). We would like this signed at the time of your offer letter.

Confidentiality

The Company is offering you employment based on your personal skills and experience, and not due to your knowledge of any confidential, proprietary, or trade secret information of any prior employer. Should you accept this offer, we do not want you to make use of or disclose any such information or to retain or disclose any materials from a prior or current employer. In this regard, you should be extremely careful not to bring to the Company, even if inadvertently, any documents or other materials in tangible form belonging to or acquired from any prior employer. This includes electronic or hardcopy documents, such as (but not limited to) customer lists, sales reports, strategy documents, sales/marketing promotional materials, contracts, slide presentations, email correspondence, and training materials.

The nature of the work performed at the Company is strictly confidential. Ethical standards, legal requirements, and sound business practice all require that the Company's employees never violate corporate issues of confidentiality. All business matters are property of the Company and its employees are expected to preserve and protect all confidential information of the Company. By executing this letter agreement below, you agree that during the course of your employment, and thereafter, you shall not use or disclose, in whole or in part, any of the Company's (or its clients') trade secrets or confidential and proprietary information to any person, firm, corporation, or other entity, for any reason or purpose whatsoever other than in the course of your employment with the Company, or with the prior written permission of the Company's founders. By executing this letter agreement below, you also represent and warrant to the Company that you have no agreement with, or duty to, any previous employer or other person or entity that would prohibit, prevent, inhibit, limit, or conflict with the performance of your duties to the Company.

Miscellaneous

You agree that, during the term of your employment with the Company, you will not engage in any other employment, occupation, consulting, or other business activity directly related to the business in which the Company is now involved or becomes involved during the term of your employment, nor will you engage in any other activities that conflict with your obligations to the Company.

As a Company employee, you will be expected to abide by the Company's rules and standards, which may include signing an acknowledgment that you have read and that you understand the Company's rules of conduct.

The Company reserves the right to conduct background investigations and/or reference checks on all of its potential employees. Your job offer, therefore, is contingent upon a clearance of such a background investigation and/or reference check, if any.

For purposes of federal immigration law, you will be required to provide to the Company documentary evidence of your identity and eligibility for employment in the United States. Such documentation must be provided to us within three (3) business days of your date of hire, or our employment relationship with you may be terminated.

The validity, interpretation, construction, and performance of this letter agreement, and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of state of California, without giving effect to principles of conflicts of law.

This letter agreement and the attached Confidentiality Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter herein and supersedes all prior or contemporaneous discussions, understandings, and agreements, whether oral or written, between them relating to the subject matter hereof, including but not limited to, any representations made during your recruitment, interviews, or pre-employment negotiations, whether written or oral.

This letter, including, but not limited to, its at-will employment provision, may not be modified or amended except by a written agreement signed by the Co-Founder or President of the Company and you.

We look forward to the possibility of you joining the Archer Aviation Inc. team. If the above terms and conditions are acceptable to you, please sign below to signify your understanding and acceptance of these terms and to acknowledge that no one at the Company has made any other representation to you. We kindly ask that you respond to this offer by **January 13th, 2022**. You should retain a copy for your records, and return the executed original to me. Please feel free to reach out should you have any questions in the interim.

Sincerely,

Archer's Co-Founders, Brett Adcock & Adam Goldstein

[Signature Page Follows]

Archer Aviation Inc.:

/s/ Brett Adcock
Signature

Brett Adcock
Name:

Co-CEO / Co-Founder
Title

01 / 16 / 2022
Date (MM/DD/YYYY)

Mark Mesler:

/s/ Mark Mesler
Signature

01 / 16 / 2022
Date (MM/DD/YYYY)

Exhibit 10.5

CERTAIN IDENTIFIED INFORMATION HAS BEEN EXCLUDED FROM THIS EXHIBIT BECAUSE IT IS NOT MATERIAL AND WOULD LIKELY CAUSE COMPETITIVE HARM TO THE REGISTRANT IF PUBLICLY DISCLOSED. [*] INDICATES THAT INFORMATION HAS BEEN REDACTED.**

LEASE

BY AND BETWEEN

SIR PROPERTIES TRUST,
a Maryland real estate investment trust,

as Landlord,

AND

ARCHER AVIATION INC.,
a Delaware corporation

as Tenant

77 Rio Robles, San Jose, California

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LEASE

ARTICLE 1 **Reference Data**

1.1 Introduction and Subjects Referred To.

This is a lease (this “Lease”) entered into by and between SIR PROPERTIES TRUST, a Maryland real estate investment trust (“Landlord”), and ARCHER AVIATION INC., a Delaware corporation (“Tenant”).

Each reference in this Lease to any of the following terms or phrases shall be construed to incorporate the corresponding definition stated in this Section 1.1.

<u>Date of this Lease:</u>	March 9, 2022
<u>Building:</u>	That certain single-story, free-standing building located at 77 Rio Robles, San Jose, California.
<u>Property:</u>	The Building, the parking facility attached to and serving the Building (the “ <u>Parking Facility</u> ”), the parcel(s) of land on which the Building and the Parking Facility are situated, and any structures, drives and future additions or improvements thereon. The Property is legally described on <u>Exhibit A-1</u> attached hereto.
<u>Premises:</u>	The entire interior of the Building consisting of approximately 68,243 rentable square feet of space, substantially as shown on <u>Exhibit A</u> attached hereto and incorporated herein by reference.
<u>Premises Rentable Area:</u>	68,243 square feet.
<u>Term:</u>	Ninety (90) Lease Months, commencing on the Commencement Date, and expiring at 5:00 p.m. California time on the day preceding the ninetieth (90th) monthly anniversary of the Commencement Date, subject to adjustment and earlier termination as provided in this Lease.
<u>Commencement Date:</u>	The date that is two hundred ten (210) days after the date Landlord delivers possession of the Premises to Tenant with the Demolition Work (as defined below) completed. The date of such delivery shall be referred to herein as the “ <u>Delivery Date</u> .”

Annual Fixed Rent:

<u>Dates</u>	<u>Monthly Fixed Rent</u>	<u>Annual Fixed Rent</u>
Lease Months 1 – 12 *	***	***
Lease Months 13 – 24	***	***
Lease Months 25 – 36	***	***
Lease Months 37 – 48	***	***
Lease Months 49 – 60	***	***
Lease Months 61 – 72	***	***
Lease Months 73 – 84	***	***
Lease Months 85 – 90	***	***

“Lease Month” shall have the meaning set forth in Section 2.3.

* The Annual Fixed Rent for this period is subject to abatement as set forth in Section 4.1.2 below.

Tenant’s Percentage:

One hundred percent (100%).

Permitted Uses:

General office use, research and development, manufacturing, laboratory, storage, and other legally permitted uses.

Commercial General Liability
Insurance Limits:

\$3,000,000 per occurrence (combined single limit) for property damage, bodily and personal injury and death.

Original Address of Landlord:

SIR Properties Trust
c/o The RMR Group LLC
8631 West Third Street, Suite 301E
Los Angeles, CA 90048
Attention: Vice President, West Region
E-mail: ***]

with a copy to:

SIR Properties Trust

c/o The RMR Group LLC
Two Newton Place
255 Washington Street, Suite 300
Newton, MA 02458
Attention: Jennifer B. Clark
E-mail: [***]

Original Address of Tenant:

Archer Aviation Inc.
190 West Tasman Drive
San Jose, California 95134
Attention: Legal
E-mail: [***]

Address for Payment of Rent:

SIR Properties Trust
c/o The RMR Group LLC
Dept #700
P.O. Box 31001-2136
Pasadena, CA 91110-2136

Or remit electronically to:

[***]
[***]
Account No. [***]
ABA No. [***]

Security Deposit:

Initially, [***], subject to the terms set forth in
Section 4.8 below.

1.2 Exhibits.

The Exhibits listed below in this Section are incorporated in this Lease by reference and are to be construed as a part of this Lease.

<u>Exhibit A</u>	Plan Showing the Premises.
<u>Exhibit A-1</u>	Legal Description of Property
<u>Exhibit B</u>	Declaration by Landlord and Tenant as to Commencement Date.
<u>Exhibit C</u>	Rules and Regulations.
<u>Exhibit D</u>	Alterations Requirements.
<u>Exhibit E</u>	Contractor's Insurance Requirements.
<u>Exhibit F</u>	Site Plan Improvements
<u>Exhibit G</u>	Demolition Plan

ARTICLE 2
Premises and Term; Parking

2.1 **Premises.** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, subject to and with the benefit of the terms, covenants, conditions and provisions of this Lease, the Premises.

2.2 **Right of First Offer.** As of the Date of this Lease, Landlord is the owner of those certain buildings located at 51 Rio Robles, San Jose, California ("51 Rio Robles") and 145 Rio Robles, San Jose, California ("145 Rio Robles"). So long as (i) there then exists no Default of Tenant, (ii) the Tenant named in Section 1.1 of this Lease or a Permitted Transferee (as hereinafter defined) shall occupy the entire Premises, (iii) this Lease is still in full force and effect, and (iv) either 51 Rio Robles or 145 Rio Robles remain under the ownership of Landlord or any Landlord Affiliate (as defined below), then if the entirety of 51 Rio Robles or the entirety of 145 Rio Robles shall become available for leasing by third-parties, Landlord shall so notify Tenant, and shall identify the space available (i.e., 51 Rio Robles or 145 Rio Robles, as applicable, the "Offered Space") together with the rental rate and other terms and conditions (collectively, the "Terms") under which in good faith Landlord intends to offer 51 Rio Robles or 145 Rio Robles, as applicable, to third parties (which may include a term that is not coterminous with the Term applicable to the Premises) and the date on which such Offered Space is expected to be available, and Tenant may, by giving notice to Landlord within fifteen (15) days after receipt of such notice, irrevocably elect to lease the Offered Space on the Terms. Tenant must elect to lease all of the Offered Space, and Tenant may not elect to lease only a portion thereof. If Tenant shall have so elected to lease the Offered Space, Landlord and Tenant shall enter into an amendment to this Lease (or, at Landlord's option, a separate lease for such Offered Space, which separate lease shall be on substantially the same terms and conditions as are set forth in this Lease, as modified by the Terms, and modified as necessary to reflect other reasonable and appropriate terms acceptable to Tenant and Landlord) within fifteen (15) days after Tenant shall have received the same from Landlord, confirming the lease of such Offered Space to Tenant on the Terms. If Tenant shall not elect to lease the Offered Space within the aforesaid 15-day period, then Landlord shall thereafter be free to lease any or all of such Offered Space to a third party or parties on substantially the same terms and conditions, it being agreed that time is of the essence with respect to the exercise of Tenant's rights under this Section 2.2; provided, however, if Landlord fails to enter into a lease for the Offered Space within 365 days after the expiration of such 15-day period, then the provisions of this Section 2.2 shall resume and again apply to the Offered Space. The provisions hereof shall not apply, and space shall not be deemed "available for lease" hereunder if Landlord shall intend either (a) to enter into a lease of such space to any entity controlling, controlled by or under common control with Landlord ("Landlord Affiliate"), or (b) to renew or extend the lease with (or grant a new lease to) the entity (or any party affiliated with such entity) then occupying such space. For the avoidance of doubt, if at any time neither the Landlord named in Section 1.1 of this Lease nor any Landlord Affiliate is the owner of 51 Rio Robles, then the provisions of this Section 2.2 shall immediately terminate and no longer apply with respect to 51 Rio Robles, and if at any time neither the Landlord named in Section 1.1 of this Lease nor any Landlord Affiliate is the owner of 145 Rio Robles, then the provisions of this Section 2.2 shall immediately terminate and no longer apply with respect to 145 Rio Robles.

2.3 Term.

2.3.1 In General. The term of this Lease shall be for a period beginning on the Commencement Date and continuing for the Term and any extension thereof in accordance with the provision of this Lease, unless sooner terminated as hereinafter provided. For purposes of this Lease, the term "Lease Month" shall mean each calendar month occurring during the Term, provided, however, if the Commencement Date occurs on other than the first day of a calendar month, then the first Lease Month shall commence on the Commencement Date and end on the last day of the calendar month in which the first (1st) monthly anniversary of the Commencement Date occurs. When the dates of the beginning and end of the Term of this Lease have been determined, such dates shall be evidenced by a document in the form of Exhibit B attached hereto executed by Landlord and Tenant and delivered each to the other, but the failure of Landlord and Tenant to execute or deliver such document shall have no effect upon such dates. The Term and any extension thereof in accordance with the provisions of this Lease is hereinafter referred to as the "Term" of this Lease.

2.3.2 Early Occupancy. Tenant shall have the right to occupy the Premises from and after the Date of this Lease (and notwithstanding the Commencement Date) to perform Tenant's Work and operate for the Permitted Uses, provided that (A) this Lease is fully executed by the parties hereto, (B) Landlord shall have received a copy of each of Tenant's insurance policies, or certificates of insurance therefor pursuant to Section 4.5 hereof, (C) Tenant shall have paid the Security Deposit to Landlord, (D) Tenant shall give Landlord at least ten (10) days' prior notice of any such occupancy of the Premises, and (E) during such occupancy of the Premises prior to the Commencement Date, all of the terms and conditions of this Lease shall apply (including, without limitation, Tenant's obligation to pay for all utilities as set forth in Section 4.6 below), other than Tenant's obligation to pay Annual Fixed Rent, and Tenant's Percentage of Taxes and Operating Costs (as those terms are defined in Section 4.2 below), as though the Commencement Date had occurred.

2.3.3 Extension Option. So long as this Lease is still in full force and effect, and subject to the Conditions (as hereinafter defined), which Landlord may waive, in its discretion, at any time, but only by notice to Tenant, Tenant shall have the right to extend the Term of this Lease for one (1) additional period (the "Option Term") of five (5) years. The Option Term shall commence on the day succeeding the expiration of the initial Term, and shall end on the day immediately preceding the fifth (5th) anniversary of the commencement of the Option Term. All of the terms, covenants and provisions of this Lease applicable immediately prior to the expiration of the initial Term shall apply to the Option Term except that (i) the Annual Fixed Rent for the Option Term shall be the Market Rate (as hereinafter defined) for the Premises determined as of the commencement of such Option Term, as designated by Landlord by written notice to Tenant ("Landlord's Notice"), but subject to Tenant's right to dispute as hereinafter provided; and (ii) Tenant shall have no further right to extend the Term of this Lease beyond the Option Term hereinabove provided. If Tenant shall elect to exercise the aforesaid option, it shall do so by giving Landlord notice of its election (the "Election Notice") not later than twelve (12) months, nor sooner than eighteen (18) months, prior to the expiration of the initial Term. If Tenant fails to give any such Election Notice to Landlord timely or the Conditions are neither satisfied nor waived by Landlord, the Term of this Lease shall automatically terminate no later than the end of the initial Term, and Tenant shall have no further option to extend the Term of this Lease, it being agreed

that time is of the essence with respect to the giving of such Election Notice. If Tenant shall extend the Term hereof pursuant to the provisions of this Section 2.3.3, such extension shall (subject to satisfaction of the Conditions, unless waived by Landlord) be automatically effected without the execution of any additional documents, but Tenant and Landlord shall, at either party's request, execute an agreement confirming the Annual Fixed Rent for the Option Term. The "Conditions" are that, as of the date of the Election Notice there shall exist no Default of Tenant and the named Tenant as set forth in Section 1.1 or a Permitted Transferee shall actually occupy the entire Premises.

2.3.3.1 As used in this Section 2.3, "Market Rate" shall mean a fair market fixed rent (which may include periodic adjustments) for the Premises for the Option Term commensurate with the fixed annual rents then being charged in other comparable office buildings located in San Jose, California, for premises of a similar size and quality of build-out to the Premises under lease renewals for a similar term, taking into account all relevant factors, including, without limitation, applicable market concessions (if any), the fact that Tenant is taking the Premises for the Option Term in "as is" condition and Landlord will not be providing an improvement allowance or an abated rent period in connection therewith. If Tenant disagrees with Landlord's designation of the Market Rate, then Tenant shall give notice thereof to Landlord within thirty (30) days after Tenant's receipt of Landlord's Notice (failure to provide such notice of disagreement within such 30-day period constituting acceptance by Tenant of Market Rate as set forth in Landlord's Notice); and if the parties cannot agree upon the Market Rate by the date that is forty-five (45) days following Landlord's Notice, then the Market Rate shall be submitted to appraisal as follows: Within fifteen (15) days after the expiration of such forty-five (45) day period, Landlord and Tenant shall each give notice to the other specifying the name and address of the appraiser each has chosen. The two appraisers so chosen shall meet within ten (10) days after the second appraiser is appointed and if, within twenty (20) days after the second appraiser is appointed, the two appraisers shall not agree upon a determination of the Market Rate in accordance with the following provisions of this Section 2.3 they shall together appoint a third appraiser. If only one appraiser shall be chosen whose name and address shall have been given to the other party within such fifteen (15) day period and who shall have the qualifications hereinafter set forth, that sole appraiser shall render the decision which would otherwise have been made as hereinabove provided.

2.3.3.2 If said two appraisers cannot agree upon the appointment of a third appraiser within ten (10) days after the expiration of such twenty (20) day period, then either party, on behalf of both and on notice to the other, may request such appointment by the nearest office of the American Arbitration Association (or any successor organization) in accordance with its then prevailing rules. In the event that all three appraisers cannot agree upon such Market Rate within ten (10) days after the third appraiser shall have been selected, then each appraiser shall submit his or her designation of such Market Rate to the other two appraisers in writing; and Market Rate shall be determined by calculating the average of the two numerically closest (or, if the values are equidistant, all three) values so determined.

2.3.3.3 Each of the appraisers selected as herein provided shall have at least ten (10) years' experience as a commercial real estate broker in the greater San Jose, California, area dealing with properties of the same type and quality as the Building. Each party shall pay the fees and expenses of the appraiser it has selected and the fees of its own counsel. Each party shall

pay one half (1/2) of the fees and expenses of the third appraiser (or the sole appraiser, if applicable) and all other expenses of the appraisal. The decision and award of the appraiser(s) shall be in writing and shall be final and conclusive on all parties, and counterpart copies thereof shall be delivered to both Landlord and Tenant. Judgment upon the award of the appraiser(s) may be entered in any court of competent jurisdiction.

2.3.3.4 The appraiser(s) shall determine the Market Rate of the Premises for the Option Term and render a decision and award as to their determination to both Landlord and Tenant (a) within twenty (20) days after the appointment of the second appraiser, (b) within twenty (20) days after the appointment of the third appraiser or (c) within fifteen (15) days after the appointment of the sole appraiser, as the case may be. In rendering such decision and award, the appraiser(s) shall assume (i) that neither Landlord nor the prospective tenant is under a compulsion to rent, and that Landlord and Tenant are typically motivated, well-informed and well-advised, and each is acting in what it considers its own best interest, (ii) the Premises are fit for immediate occupancy and use "as is", (x) require no additional work by Landlord or Tenant, (y) are appropriate and desired for immediate occupancy by Tenant, and (z) contain no work that has been carried out thereon by Tenant, its subtenant(s), or its or their successors-in-interest during the Term of this Lease which has diminished the rental value of the Premises, and (iii) that in the event the Premises have been destroyed or damaged by fire or other casualty prior to the commencement of the Option Term, they have been fully restored. The appraisers shall also take into consideration the rent and applicable market concessions contained in leases for comparable space in the Building, or in comparable buildings in the greater San Jose, California area, for comparable periods of time.

2.3.3.5 If the dispute between the parties as to the Market Rate has not been resolved before the commencement of Tenant's obligation to pay the Annual Fixed Rent based upon determination of such Market Rate, then Tenant shall pay the Annual Fixed Rent under the Lease based upon the Market Rate designated by Landlord in Landlord's Notice until either the agreement of the parties as to the Market Rate, or the decision of the appraiser(s), as the case may be, and within thirty (30) days after such agreement of the parties or the decision of the appraiser(s), Tenant shall pay any underpayment of the Annual Fixed Rent to Landlord, or Landlord shall refund any overpayment of the Annual Fixed Rent to Tenant.

2.3.3.6 Landlord and Tenant hereby waive the right to an evidentiary hearing before the appraiser(s) and agree that the appraisal shall not be an arbitration nor be subject to state or federal law relating to arbitrations; provided, however, that Landlord and Tenant may each submit to the appraisers any information each deems relevant to determination of the Market Rate.

2.4 Parking. As long as this Lease is in force and effect, Tenant shall have the exclusive right to use all of the parking spaces in the Parking Facility for the parking of standard passenger vehicles (and not as storage or other uses) at no charge, other than the amount of taxes or other impositions (if any) imposed by any governmental authority in connection with the use of such parking spaces, or the use of the Parking Facility, by Tenant.

All parking spaces in the Parking Facility shall be used for the parking of passenger vehicles of Tenant and its employees and invitees only. Tenant acknowledges that Landlord is not required to

provide any security or security services for the Parking Facility. If the whole or any part of any personal property in the Parking Facility shall be lost, destroyed or damaged by fire, water (including, without limitation, leaks from pipes, groundwater, or flooding from any other source) or other casualty, by theft or from any other cause, no part of such loss or damage is to be charged to or borne by Landlord unless the same is caused by the gross negligence or willful misconduct of Landlord or Landlord's agents, contractors or employees. Tenant acknowledges and agrees that the owners of the vehicles parked in the Parking Facility shall be solely responsible for insuring said vehicles. Tenant shall indemnify and shall hold Landlord harmless from and against all claims, loss, cost, or damage arising out of the use by Tenant and its employees and invitees of the Parking Facility, except to the extent any such claims, loss, cost or damage arises out of or in connection with the negligence or willful misconduct of Landlord or its agents, employees or contractors.

ARTICLE 3

Condition of Premises

3.1 Condition of the Premises. Tenant hereby acknowledges that other than the Landlord's Work (as defined below) and Landlord's ongoing repair, maintenance and replacement obligations set forth in this Lease, Landlord shall have no obligation to provide, perform or pay for any alterations or improvements to the Premises, except to the extent of Landlord's Contribution. Subject to Landlord's express obligations set forth in Section 3.2 below, the taking of possession of the Premises by Tenant shall conclusively establish that the Premises was at such time in good and sanitary order, condition and repair. Tenant acknowledges that neither Landlord nor Landlord's agent or employees (either past or present) have made any representation or warranty as to the present or future suitability of the Premises for the conduct of Tenant's business. Tenant further acknowledges that, except as provided in this Lease (including, without limitation, the warranty set forth in Section 3.3 below), neither Landlord nor Landlord's agents or employees (either past or present) have made any representation or warranty, and Landlord hereby disclaims any representation or warranty, as to the physical condition of the Premises or anything installed or contained therein unless expressly stated in this Lease, including, but not limited to, any express or implied warranty of habitability, merchantability or fitness for a particular purpose.

3.2 Initial Alterations.

3.2.1 Landlord's Work. Tenant shall accept the Premises in its currently existing, "as is" condition as of the date of this Lease. Notwithstanding the foregoing, Landlord shall, at Landlord's sole cost (and not to be passed through to Tenant as part of Operating Costs, whether or not amortized), perform the work (collectively, the "Landlord's Work") set forth below in this Section 3.2.1. In connection therewith, (i) Landlord shall complete the Demolition Work set forth below in Section 3.2.1.1 below prior to the Delivery Date, and (ii) Landlord shall use commercially reasonable efforts to complete the remainder of Landlord's Work set forth below in Sections 3.2.1.2, 3.2.1.3, 3.2.1.4, 3.2.1.5 and 3.2.1.6 (collectively, the "Post-Delivery Work") prior to the Commencement Date, but if such Post-Delivery Work is not completed prior to the Commencement Date, Landlord shall not be in default hereunder or be liable for damages therefor, and Tenant acknowledges and agrees that Landlord shall have the right to continue to perform the Post-Delivery Work after the Commencement Date, provided in connection therewith, Landlord shall use commercially reasonable efforts to minimize interference with the performance of

Tenant's Work and Tenant's use of, and access to, the Premises. In connection therewith, Landlord shall:

3.2.1.1 Prior to Landlord's delivery of the Premises to Tenant, perform the demolition of improvements within the Premises based on the demolition plan attached hereto as Exhibit G, subject to any revisions to such demolition plan reasonably agreed upon by Landlord and Tenant (provided, however, that it shall be deemed reasonable for Landlord to withhold its approval to any such revisions to the extent the same would materially adversely affect the schedule for Landlord's construction of the Landlord's Work, or would increase the cost of the Landlord's Work) (the "Demolition Work"). The Demolition Work shall include, without limitation, the removal from the Premises and disposal of all debris, materials and waste resulting from the Demolition Work.

3.2.1.2 Cause the currently existing Building Systems (as defined in Exhibit D below) and equipment servicing the Premises to be in good working order;

3.2.1.3 Replace the current roof of the Building (such new roof, the "New Roof");

3.2.1.4 In connection with certain of the currently existing HVAC mechanical units on the roof of the Building (the "Identified Units") (as identified in that certain SVM Report dated June 26, 2020, and updated December 10, 2021 (the "SVM Report"), repair or replace (as outlined in the SVM Report) such Identified Units;

3.2.1.5 All work necessary to upgrade the electrical power available to the main electrical panel in the electrical room of the Building to 4,000 amps, which shall include, without limitation, exterior trenching from the street, feed lines to the Building/main point of entry, transformers, including support pads, switch gear, and main electrical panel inside the Building (collectively, the "Electrical Power Work"); and

3.2.1.6 perform those certain Site Plan Improvements in connection with Tenant's truck loading requirements as set forth more particularly on Exhibit F.

All such Landlord's Work shall be completed in a good and workmanlike manner using Building standard materials, colors and procedures and in compliance with applicable legal requirements, and Landlord shall use commercially reasonable efforts to minimize interference with Tenant's Work and Tenant's operations in connection with the performance of the Landlord's Work. Following completion of the Landlord's Work, Landlord shall use commercially reasonable efforts to enforce all warranties received by Landlord for Landlord's Work which are applicable to improvements to be repaired and maintained by Tenant pursuant to this Lease.

Notwithstanding the foregoing, in the event that either (i) Landlord fails to substantially complete (as defined below) the Post-Delivery Work (other than the substantial completion of the Electrical Power Work to the extent such substantial completion is delayed due to delays by the applicable utility company/regulatory agency that are outside of Landlord's reasonable control) within ninety (90) days after the Commencement Date (the "Completion Deadline"), or (ii) if the performance of the Post-Delivery Work delays the substantial completion of Tenant's Work or, if Tenant has commenced business operations in the Premises, materially interferes with Tenant's use of the

Premises (in either case, a “Work Delay/Use Interference”), then Tenant shall be entitled to one (1) day of free Annual Fixed Rent and Additional Rent (a) for each day occurring after the Completion Deadline until the Post Delivery Work is substantially complete and/or (b) for each day of a Work Delay/Use Interference, as applicable, which free Annual Fixed Rent and Additional Rent shall be applied after the Commencement Date and the expiration of the Rent Abatement Period.

Landlord’s Work shall be deemed “substantially complete” on the date that all of Landlord’s Work is complete except for punch list items (i.e., minor and insubstantial details of decoration or mechanical adjustment) that (i) do not preclude Tenant from obtaining any permit or governmental approval needed for Tenant’s use of the Premises for the Permitted Use, including without limitation, a certificate of occupancy, (ii) do not materially interfere with Tenant’s use of the Premises for the Permitted Use, and (iii) are not reasonably estimated to take more than thirty (30) days to complete (collectively, “Punch List Items”). When Landlord considers Landlord’s Work to be substantially complete, Landlord shall notify Tenant of the same. Tenant and Landlord shall conduct a walk-through inspection of the Premises to identify any Punch List Items. Landlord shall complete or correct Punch List Items as soon as reasonably possible following identification thereof.

3.2.2 Tenant’s Plan. Tenant shall prepare complete plans and specifications (“Tenant’s Plans”) for the initial improvements to the Premises desired by Tenant, and submit the same to Landlord for Landlord’s approval. Landlord shall reasonably respond to Tenant’s Plans (either by approval, reasonable request for additional information, reasonable request for revision or communication of a reasonable reason for failure to approve) within ten (10) Business Days after the date of Landlord’s receipt of Tenant’s Plans (or within five (5) Business Days of any resubmission thereof) (in each case, the “Landlord Review Period”). If additional time beyond the applicable Landlord Review Period is necessary for review of Tenant’s Plans by Landlord’s architect, engineer or other consultant, then Landlord may extend such Landlord Review Period by one additional period of ten (10) Business Days by providing written notice of such extension to Tenant prior to the expiration of the initial Landlord Review Period. Tenant shall deliver to Landlord such additional information, documentation and/or revisions to Tenant’s Plans as are reasonably requested by Landlord to obtain Landlord’s approval of Tenant’s Plans and this process shall continue until Tenant’s Plans are approved by Landlord. Tenant shall not commence Tenant’s Work (hereinafter defined) until Tenant’s Plans have been approved by Landlord and Tenant shall have obtained any required governmental permits (such conditions being the “Work Contingency”).

3.2.3 Tenant’s Work. Following the satisfaction of the Work Contingency, Tenant shall cause its Contractor (as defined below), to perform the work and improvements described on Tenant’s Plans (collectively, “Tenant’s Work”) with commercially reasonable diligence until Tenant’s Work is completed. Tenant’s Work shall be performed in a good and workmanlike manner, in compliance with all applicable laws and in accordance with the provisions of this Lease. Tenant agrees to cease promptly upon notice from Landlord any activity or work which has not been approved by Landlord or is not in compliance with the provisions of this Lease, including, without limitation, the terms of this Section 3.2. The “Contractor” shall be a general contractor selected by Tenant, but subject to Landlord’s prior written approval, which shall not be unreasonably withheld. In addition, all subcontractors, laborers, materialmen, and suppliers used

by Tenant must be approved in writing by Landlord, which approval shall not be unreasonably withheld or delayed. Landlord hereby approves South Bay Construction as Tenant's Contractor. Notwithstanding anything set forth in this Lease to the contrary, in no event shall Tenant be required to use union labor or build to LEED standards.

3.2.4 Substantial Completion Date. Tenant's Work shall be considered substantially complete and the "Substantial Completion Date" shall occur on the first day as of which all of the following requirements have been met: (i) all work shown and described in Tenant's Plans has been completed in accordance with Tenant's Plans, with only punch list items (i.e., minor and insubstantial details of decoration or mechanical adjustment) excepted; (ii) all electrical, mechanical, and plumbing facilities installed by Tenant are functioning properly; (iii) the Premises are reasonably free of debris and construction materials; (iv) if applicable, Tenant's architect has issued a certificate of substantial completion on a standard AIA form, which has been delivered to Landlord; and (v) if applicable, all required governmental inspections have been successfully completed and a certificate of occupancy (or its equivalent) required as a result of Tenant's Work has been issued by the applicable governmental authority and a copy thereof delivered to Landlord.

3.2.5 Landlord's Contribution. Provided the Lease is in full force and effect and subject to the provisions of this Section 3.2, Landlord shall provide Tenant with an allowance ("Landlord's Contribution") in an amount not to exceed [***] to be applied (i) against the cost of Tenant's Work, and (ii) against the cost of telecommunications systems and voice data cabling installed in the Premises, and moving costs in connection with Tenant's moving of personal property into the Premises (collectively, "Telecom and Moving Costs"), not to exceed [***] with respect to Telecom and Moving Costs. For purposes of this Section 3.2.5, the "cost" of Tenant's Work shall mean the actual third-party costs incurred by Tenant in connection with performing Tenant's Work including, without limitation, all architectural and engineering fees and expenses; all contractor charges for the cost of labor and materials, profit, general conditions and overhead and supervision; all filing fees and other permitting costs and fees paid to independent construction managers, plus a construction management fee to be retained by Landlord (i.e., to be subtracted from Landlord's Contribution), equal to one percent (1%) of the hard costs of the Tenant's Work (but in no event shall such hard costs exceed the amount of the Landlord Contribution). In connection with the preparation of the Tenant's Plans, Tenant shall engage a third-party architect to perform a test-fit of the Premises, and Landlord shall provide a separate allowance not to exceed [***] (the "Test-Fit Allowance"), which Landlord shall pay to Tenant within thirty (30) days following Landlord's receipt of an invoice from Tenant together with reasonable supporting documentation evidencing the cost of such test-fit, and Tenant shall pay any costs of such test-fit that are in excess of the Test-Fit Allowance.

3.2.6 Progress Payments. Tenant may requisition Landlord for payment of Landlord's Contribution monthly (and in no event more than once per month) (hereinafter "Progress Payments") provided that Landlord may withhold ten percent (10%) of the amount due on each requisition paid prior to the Substantial Completion Date (the "Retained Amounts"). Each requisition for a Progress Payment shall include (i) a detailed breakdown of the cost of Tenant's Work (and Telecom and Moving Costs as applicable) included in the requisition, (ii) copies of invoices from Tenant's contractors, suppliers and others, as applicable, substantiating such costs, and (iii) executed waivers of mechanic's or material supplier's liens (in such form as Landlord

shall reasonably require) on account of any labor and/or materials furnished by such party through the date of the requisition (provided that any such waiver may be conditioned upon receipt of the amount requested for such party in the requisition). Landlord shall make each Progress Payment to Tenant in an amount not to exceed the lesser of (x) the costs of Tenant's Work (and Telecom and Moving Costs as applicable), as evidenced by the documentation submitted with the applicable requisition, or (y) the balance of Landlord's Contribution then remaining (less Retained Amounts held by Landlord as hereinabove provided) within thirty (30) days after Landlord's receipt of a Progress Payment requisition with all required supporting documentation.

3.2.7 Final Payment. After the Substantial Completion Date shall have occurred, Tenant may request in writing that Landlord make payment of the balance of Landlord's Contribution and all retained amounts other than Landlord's construction management fee (the "Final Payment"). Tenant's requisition for the Final Payment shall include (i) a final breakdown of all of the costs of Tenant's Work and Telecom and Moving Costs, (ii) final unconditional mechanic's and material supplier's lien waivers therefor, and (iii) all other documentation required for the Progress Payment pursuant to the preceding paragraph as to the portion of Tenant's Work and the Telecom and Moving Costs covered by the Final Payment. Landlord shall make payment of the Final Payment to Tenant in an amount equal to the lesser of (x) the unreimbursed cost of Tenant's Work and Telecom and Moving Costs, as evidenced by the documentation submitted with the requisition for the Final Payment or (y) the balance of Landlord's Contribution then remaining, if any (including any retained amounts other than Landlord's construction management fee), within thirty (30) days after Landlord's receipt of a requisition for the Final Payment with all required supporting documentation.

3.2.8 Payment Obligations. Notwithstanding the foregoing, Landlord shall not be required to make payment of Landlord's Contribution, (a) for any requisition for which Tenant shall not have submitted paid invoices for Tenant's Work or Telecom and Moving Costs together with all required supporting documentation within twelve (12) months following the date that all of Landlord's Work is substantially complete (other than the substantial completion of the Electrical Power Work to the extent such substantial completion is delayed due to delays by the applicable utility company/regulatory agency that are outside of Landlord's reasonable control), (b) at a time when there exists any Default of Tenant, and/or (c) if the Lease shall have terminated as a result of a Default of Tenant. Any balance of Landlord's Contribution that Landlord is not required to reimburse to Tenant pursuant to this Section 3.2.8 shall be the property of Landlord and Tenant shall have no claim thereto.

3.2.9 Construction Representative. Both Landlord and Tenant shall appoint one individual as its "Construction Representative" who is authorized to act on its behalf in connection with any matters arising pursuant to this Section 3.2. The Construction Representative may be changed from time to time by notice hereunder from the then current Construction Representative to the other party's Construction Representative or by notice from Landlord or Tenant pursuant to Section 10.1 of this Lease. Notwithstanding Section 10.1 of this Lease, any notices or other communication under this Section 3 may be made by letter or other writing sent by U.S. mail or email, provided the communication is made by one party's Construction Representative to the other party's Construction Representative.

3.3 120-Day Warranty. Notwithstanding any contrary provisions in this Lease, Landlord hereby warrants that the Building's plumbing and HVAC systems including, without limitation, all plumbing and HVAC work performed as part of Landlord's Work (other than to the extent the same have been installed, altered, moved or otherwise modified by Tenant) shall be in good working condition for a period of one hundred twenty (120) days following the date that all of Landlord's Work is complete, except to the extent of damage due to Tenant's use of the Premises for other than normal and customary research and development operations or due to the negligence or willful misconduct of Tenant, its employees, contractors or invitees. In the event that this warranty has been violated, Landlord, after receipt of written notice from Tenant setting forth with specificity the nature of the violation, shall promptly perform all repairs and replacements necessary to rectify such violation. The cost of any such warranty repair by Landlord shall not be included in Operating Costs or otherwise payable by, or passed through to, Tenant.

ARTICLE 4

Rent, Additional Rent, Insurance and Other Charges

4.1 The Annual Fixed Rent.

4.1.1 In General. Tenant shall pay Annual Fixed Rent to Landlord, or as otherwise directed by Landlord, without offset (except as expressly set forth in this Lease), abatement (except as provided in Article 7), deduction or demand. Annual Fixed Rent shall be payable in equal monthly installments, in advance, on the first day of each and every calendar month (subject to the Rent Abatement as set forth in Section 4.1.2 below) during the Term of this Lease, at the Address for Payment of Rent, or at such other place as Landlord shall from time to time designate by notice, by check drawn on a domestic bank or by electronic transfer of funds from a domestic bank. Annual Fixed Rent for any partial month shall be prorated on a daily basis (based on a 365 day year), and if Annual Fixed Rent commences on a day other than the first day of a calendar month, the first payment which Tenant shall make to Landlord shall be payable on the date Annual Fixed Rent commences and shall be equal to such pro-rated amount plus the installment of Annual Fixed Rent for the succeeding calendar month. The Annual Fixed Rent applicable to the first calendar month following the expiration of the Rent Abatement Period (as hereinafter defined) shall be paid by Tenant upon the Delivery Date.

4.1.2 Abated Annual Fixed Rent. Provided there does not exist a Default of Tenant, then during the first six (6) full calendar months of the Term (the "Rent Abatement Period"), Tenant shall not be obligated to pay the Annual Fixed Rent otherwise attributable to the Premises during such Rent Abatement Period (the "Rent Abatement"). Landlord and Tenant acknowledge that the aggregate amount of the Rent Abatement equals [***]. Notwithstanding such abatement, Tenant shall continue to be obligated to pay the full amount of Additional Rent and any other amounts due to the Landlord during the Rent Abatement Period. Tenant acknowledges and agrees that the foregoing Rent Abatement has been granted to Tenant as additional consideration for entering into this Lease, and for agreeing to pay the Annual Fixed Rent and perform the terms and conditions of this Lease. In the event this Lease is terminated as a result of a Default of Tenant during the initial 90-Lease Month Term of the Lease, then Landlord shall be permitted to recover from Tenant the amount of the Rent Abatement decreased by amortization (based on the straight line method of amortization) over a period equal to the initial 90-Lease Month Term of the Lease. The foregoing Rent Abatement right set forth in this

Section 4.1.2 shall be personal to the Tenant originally named herein and shall only apply to the extent that such original Tenant (and not any assignee, or any sublessee or other transferee of the original Tenant's interest in this Lease) is the Tenant under this Lease during such Rent Abatement Period.

4.2 Additional Rent. Tenant shall pay to Landlord, as Additional Rent, Tenant's Percentage of Taxes and Operating Costs as provided in Sections 4.2.1 and 4.2.2, and all other charges and amounts payable by or due from Tenant to Landlord (all such amounts referred to in this sentence being "Additional Rent"). Annual Fixed Rent and Additional Rent are herein collectively referred to as "**Rent.**"

4.2.1 Real Estate Taxes. During the Term Tenant shall reimburse Landlord, as Additional Rent, for Tenant's Percentage of Taxes. Tenant shall pay to Landlord, as Additional Rent on the first day of each calendar month during the Term but otherwise in the manner provided for the payment of Annual Fixed Rent, estimated payments on account of Taxes, such monthly amounts to be sufficient to provide Landlord by the time Tax payments are due or are to be made by Landlord a sum equal to the Taxes for the then current Tax Year, as reasonably estimated by Landlord from time to time. Within 120 days after the end of each Tax Year during the Term, Landlord shall give Tenant a notice setting forth the amount of Taxes for the preceding Tax Year, along with copies of all applicable tax bills substantiating the amount of Taxes for such Tax Year. If the total of Tenant's monthly remittances on account of Taxes for any Tax Year is greater than the actual Taxes for such Tax Year, Landlord shall credit such overpayment against Tenant's subsequent obligations on account of Rent (or promptly refund such overpayment if the Term of this Lease has ended and Tenant has no further obligations to Landlord); if the total of such remittances is less than the actual Taxes for such Tax Year, Tenant shall pay the difference to Landlord within ten (10) Business Days after being so notified by Landlord.

In the event that the Commencement Date shall occur or the Term of this Lease shall expire or be terminated during any Tax Year, or should the Tax Year or period of assessment of real estate taxes be changed or be more or less than one (1) year, then the amount of Taxes which may be otherwise payable by Tenant as provided in this Subsection 4.2.1 shall be pro-rated on a daily basis based on a 365-day Tax Year.

"Taxes" shall mean all taxes, assessments, excises and other charges and impositions which are general or special, ordinary or extraordinary, foreseen or unforeseen, of any kind or nature which are levied, assessed or imposed by any governmental authority upon or against or with respect to the Property, Landlord or the owner or lessee of personal property used by or on behalf of Landlord in connection with the Property, or any taxes in lieu thereof, and additional types of taxes to supplement real estate taxes due to legal limits imposed thereon. If, at any time, any tax or excise on rents or other taxes, however described, are levied or assessed against Landlord, either wholly or partially in substitution for, or in addition to, real estate taxes assessed or levied on the Property, such tax or excise on rents or other taxes shall be included in Taxes; provided, however, Taxes shall not include franchise, estate, inheritance, succession, capital levy or income (except to the extent that a tax on income or revenue is levied solely on rental revenues and not on other types of income and then only from rental revenue generated by the Property) tax assessed on Landlord. Taxes also shall include all court costs, attorneys', consultants' and accountants' fees, and other expenses incurred by Landlord in analyzing and contesting Taxes through and including all appeals

up to the amount of tax savings achieved, unless performed at the request of Tenant (which Landlord shall have the option, in its sole discretion, to agree to or not). Taxes shall include any estimated payment made by Landlord on account of a fiscal tax period for which the actual and final amount of taxes for such period has not been determined by the governmental authority as of the date of any such estimated payment, provided Tenant shall be credited with any reimbursement or refunded amount once the actual and final amount of such taxes is determined. Tenant shall not be responsible for any interest, late charge or other penalty resulting from Landlord's late payment or non-payment of Taxes, except to the extent caused solely by Tenant's delinquent payment, nor any administrative or other charge which may be claimed by Landlord. Tenant, at its expense, may contest, by appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Taxes, provided, however, that (a) Tenant shall first make all contested Taxes payments prior to delinquency; and (b) Tenant shall indemnify, protect and hold Landlord and the Property harmless from any lien imposed on the Premises, Property or any portion thereof with respect to and during the duration of any such contest conducted by Tenant. Any refund of Taxes (including interest and penalties) which has been paid by Tenant, and which is allocable to the Property, shall belong to Tenant.

4.2.2 Operating Costs. Tenant shall pay to Landlord, as Additional Rent, Tenant's Percentage of Operating Costs (as hereinafter defined) paid or incurred by Landlord with respect to the Property in any twelve (12) month period established by Landlord (an "Operating Year") during the Term of this Lease (Tenant's Percentage of Operating Costs being hereinafter referred to as "Tenant's Operating Cost Obligation"). Tenant shall pay to Landlord, as Additional Rent, on the first day of each calendar month during the Term but otherwise in the manner provided for the payment of Annual Fixed Rent, estimated payments on account of Tenant's Operating Cost Obligation, such monthly amounts to be sufficient to provide to Landlord, by the end of each Operating Year, a sum equal to Tenant's Operating Cost Obligation for such Operating Year, as reasonably estimated by Landlord from time to time. Within 120 days after the end of each Operating Year during the Term, Landlord shall furnish to Tenant an itemized statement setting forth the amount of Operating Costs for the preceding Operating Year for the Building and the Property and a computation of Tenant's Operating Cost Obligation. Any such year-end statement by Landlord relating to Operating Costs shall be final and binding upon Tenant unless Tenant shall, within one hundred twenty (120) days after receipt thereof, contest any items therein by giving notice to Landlord specifying each item contested and the reasons therefor. If, at the expiration of each Operating Year in respect of which monthly installments on account of Tenant's Operating Cost Obligation shall have been made as aforesaid, the total of such monthly remittances is greater than Tenant's Operating Cost Obligation for such Operating Year, Landlord shall credit such overpayment against Tenant's subsequent obligations on account of Rent (or promptly refund such overpayment if the Term of this Lease has ended and Tenant has no further obligation to Landlord); if the total of such remittances is less than Tenant's Operating Cost Obligation for such Operating Year, Tenant shall pay the difference to Landlord within ten (10) Business Days after being so notified by Landlord.

In the event that the Commencement Date shall occur or the Term of this Lease shall expire or be terminated during any Operating Year, then the amount of Tenant's Operating Cost Obligation which may be payable by Tenant as provided in this Subsection 4.2.2 shall be pro-rated on a daily basis based on a 365-day Operating Year.

“Operating Costs” shall be all costs and expenses paid or incurred by Landlord for the operation, cleaning, management, maintenance, insurance, repair, replacement, decoration, upkeep, protection and security of the Property or any part or component thereof, and shall include, without limitation, auditing and other professional fees and expenses incurred by Landlord directly in connection with the calculation and assessment of Operating Costs or the performance of Landlord obligations under this Lease and reasonably attributed by Landlord to any Operating Year, plus a management fee (the “Management Fee”) in an amount equal to three percent (3%) of the Annual Fixed Rent and Additional Rent payable by Tenant under the this Lease (without taking into account any abatement or other reduction of rent).

4.2.3 Notwithstanding the foregoing, for purposes of this Lease, Operating Costs shall not include the following:

(a) costs, including marketing costs, legal fees, space planner’s fees, and brokerage fees incurred in connection with the original construction and development of the Property or the original or future leasing of the Property, and costs, including permit, license and inspection costs and allowances and other costs incurred with respect to the installation of tenant improvements made for new tenants in the Property or incurred in renovating or otherwise improving, decorating, painting or redecorating vacant leasable space for tenants or other occupants (or prospective tenants or occupants) of the Property;

(b) depreciation, interest and principal payments on mortgages, and other debt costs;

(c) costs for which Landlord is separately reimbursed by insurance by its carrier or any tenant’s carrier or by anyone else, and costs of electric power or any other utility for which any tenant directly contracts with the local utility;

(d) any bad debt loss, rent loss, or reserves for bad debts or rent loss;

(e) any amounts paid as ground rental for the Property of Landlord;

(f) all items and services for which Tenant or any other party separately reimburses Landlord;

(g) costs incurred to remove, study, test, remediate or otherwise related to the presence of Hazardous Materials (as defined below) in or about the Building or the Property that are not brought upon, kept used, stored, handled, treated, generated in, or disposed of from, the Premises by Tenant or any of its agents, employees or invitees;

(h) costs arising from Landlord’s charitable or political contributions;

(i) the amount of any payments by Landlord to its affiliates for goods or services for the Property in excess of a competitive rate;

(j) costs incurred in connection with the financing, refinancing, mortgaging, selling or change of ownership of the Property, including brokerage commissions,

fees of consultants, attorneys, and accountants, closing costs, title insurance premiums, transfer taxes and interest charges;

(k) all costs associated with the operation of the business of the entity which constitutes Landlord as distinguished from costs incurred in the operation of the Property (e.g., placement fees for employees, corporate accounting and employee training costs);

(l) costs arising from Landlord's negligence or intentional misconduct;

(m) costs incurred by Landlord to correct any condition of the Building or Property that is in violation of any applicable law as of the Commencement Date;

(n) management, administrative, overhead, supervisory or other mark-up fees, however termed, other than the Management Fee;

(o) Expenses for repair or replacement paid by proceeds of condemnation awards or property insurance policies; and

(p) costs of a capital nature including, but not limited to, capital improvements, capital repairs, structural repairs, capital equipment, capital tools as determined in accordance with generally accepted accounting principles and/or the equivalent costs and fees of leasing or renting same, other than Permitted Capital Expenditures.

As used herein, "Permitted Capital Expenditures" means capital expenditures or capital improvements (A) which are reasonably anticipated to be a labor-saving device or to effect other economies in the operation or maintenance of the Property, or any portion thereof, (B) that are required to comply with governmentally-mandated conservation programs, or (C) which are made to the Property, or any portion thereof, by Landlord after the Commencement Date that are required under any governmental law or regulation that was not applicable to the Property at the time of the Commencement Date. Permitted Capital Expenditures shall be amortized over the useful life thereof, and only such amortized amount shall be included within the Operating Costs for the applicable Operating Year.

4.2.4 Final Statement. Provided Tenant shall have paid all amounts invoiced by Landlord on account of Operating Costs for the applicable Operating Year, Landlord shall permit Tenant, at Tenant's sole cost and expense except as hereinafter provided, to review any of Landlord's invoices, books, records and statements relating to Operating Costs for such Operating Year, provided such review is commenced within one hundred and twenty (120) days of Tenant's receipt of Landlord's final statement of Operating Costs for the applicable Operating Year (the "Final Statement") and thereafter undertaken by Tenant or its accountants (provided such accountants are compensated at a usual hourly rate and not on a contingency fee basis) with due diligence. If Tenant objects to Landlord's accounting of any Operating Costs, Tenant shall, on or before the date one hundred and eighty (180) days following receipt of the Final Statement, notify Landlord that Tenant disputes the correctness of such accounting, specifying the particular line items which Tenant claims are incorrect; otherwise, Tenant shall be deemed to have waived any and all objections to such Final Statement. If such dispute has not been settled by agreement within sixty (60) days after Landlord's receipt of Tenant's notice of dispute, either party may submit the dispute to arbitration in accordance with the commercial arbitration rules of the American

Arbitration Association. The decision of the arbitrators shall be final and binding on Landlord and Tenant and judgment thereon may be entered in any court of competent jurisdiction. If it should be agreed or decided that Operating Costs were overstated by five percent (5%) or more, then Landlord shall promptly reimburse Tenant for the reasonable costs incurred by Tenant in reviewing Landlord's invoices and statements, Tenant's reasonable arbitration costs, plus any excess amount paid by Tenant on account of overstated Operating Costs with interest at the Default Rate (as defined in Section 8.4). If it should be decided that Operating Costs were not overstated at all, then Tenant shall, as Additional Rent, promptly reimburse Landlord for its costs incurred in the arbitration and in preparing for Tenant's review of invoices and statements, and if Operating Costs shall have been understated or Tenant shall not have paid Tenant's Operating Cost Obligation in full, Tenant shall, as additional Rent, promptly pay any deficiency. In the event of an overstatement which is less than five percent (5%), Landlord shall promptly reimburse Tenant for any excess amount paid by Tenant on account of overstated Operating Costs, and each party shall be responsible for its own costs incurred in connection with such dispute. Tenant shall keep confidential all agreements involving the rights provided in this section and the results of any audits or arbitration conducted hereunder. Notwithstanding the foregoing, Tenant shall be permitted to furnish the foregoing information to its attorneys and accountants to the extent necessary to perform their respective service for Tenant.

4.4 Personal Property and Sales Taxes. Tenant shall pay all taxes charged, assessed or imposed upon the personal property of Tenant and all taxes on the sales of inventory, merchandise and any other goods by Tenant in or upon the Premises.

4.5 Insurance.

4.5.1 Insurance Policies. Tenant shall, at its expense, take out and maintain, throughout the Term of this Lease, the following insurance:

4.5.1.1 Commercial general liability insurance (on an occurrence basis, including without limitation, broad form contractual liability, bodily injury, property damage, and fire legal liability) under which Tenant is named as an insured and Landlord and Landlord's agent, The RMR Group LLC, (and the holder of any mortgage on the Premises or Property, as set out in a notice from time to time) are named (on a form reasonably acceptable to Landlord) as additional insureds as their interests may appear, in an amount which shall, at the beginning of the Term, be at least equal to the Commercial General Liability Insurance Limits, and, which, from time to time during the Term, shall be for such higher limits, if any, as Landlord shall reasonably determine to be customarily carried in the area in which the Premises are located at property comparable to the Premises and used for similar purposes;

4.5.1.2 Worker's compensation insurance with statutory limits covering all of Tenant's employees working on the Premises;

4.5.1.3 So-called "special form" property insurance on a "replacement cost" basis with an agreed value endorsement covering all furniture, furnishings, fixtures and equipment and other personal property brought to the Premises by Tenant or any party claiming under Tenant and all improvements and betterments to the Premises performed at Tenant's expense; and

4.5.1.4 So-called "business income and extra expense" insurance covering twelve (12) months loss of income.

4.5.2 Requirements. All such policies shall contain deductibles that are not in excess of commercially reasonable amounts (but in no event, not in excess of \$250,000.00), shall contain a clause confirming that such policy and the coverage evidenced thereby shall be primary with respect to any insurance policies carried by Landlord and shall be obtained from responsible companies qualified to do business and in good standing in the State of California and shall have a general policy holder's rating in AM Best's of at least A-VIII. A copy of each paid-up policy evidencing such insurance (appropriately authenticated by the insurer) or a certificate (on ACORD Form 25 or its equivalent) of the insurer, certifying that such policy has been issued and paid in full, providing the coverage required by this Section and containing provisions specified herein, shall be delivered to Landlord prior to the commencement of the Term of this Lease and, upon renewals, prior to the expiration of such coverage. Any insurance required of Tenant under this Lease may be furnished by Tenant under a blanket policy carried by it provided that such blanket policy shall reference the Premises, and shall guarantee a minimum limit available for the Premises equal to the insurance amounts required in this Lease. Landlord may, at any time, and from time to time, inspect and/or copy any and all insurance policies required to be procured by Tenant hereunder.

4.5.3 Landlord's Insurance. At all times during the term, Landlord, as part of the Operating Costs, shall keep in full force and effect (i) standard form so-called extended coverage property insurance on the Building, in an amount not less than the full replacement value thereof (subject to the deductibles and excluding footings and foundations and any leasehold improvements performed by tenants), and (ii) any combination of commercial general liability insurance policy (or an equivalent), excess liability policy and/or umbrella liability policy in the amount of Five Million Dollars (\$5,000,000) combined single limit for injury to, or death of, one or more persons in an occurrence, and for damage to tangible property (including loss of use) in an occurrence.

4.5.4 Waiver of Subrogation. Landlord and Tenant shall each endeavor to secure an appropriate clause in, or an endorsement upon, each property insurance policy obtained by it and covering the Building, the Premises or the personal property, fixtures and equipment located therein or thereon, pursuant to which the respective insurance companies waive subrogation and permit the insured, prior to any loss, to agree with a third party to waive any claim it might have against said third party. The waiver of subrogation or permission for waiver of any claim hereinbefore referred to shall extend to the agents of each party and its employees and, in the case of Tenant, shall also extend to all other persons and entities occupying or using the Premises by, through or under Tenant.

Subject to the foregoing provisions of this Subsection 4.5.4, and insofar as may be permitted by the terms of the property insurance policies carried by it, each party hereby releases the other with respect to any claim which it might otherwise have against the other party for any loss or damage to its property to the extent such damage is actually covered or would have been covered by policies of property insurance required by this Lease to be carried by the respective parties hereunder. In addition, each party agrees to exhaust any and all claims against its insurer(s)

prior to commencing an action against the other party for any loss covered by insurance required to be carried hereunder.

4.6 Utilities. Tenant shall contract directly with all utility service providers and Tenant shall pay for all utilities (including without limitation, electricity, gas, sewer and water) attributable to its use of the entire Property and shall also provide its own janitorial and security services for the Building. Such utility use shall include, without limitation, electricity, water, sewer, and gas used for lighting, exterior lighting, landscaping, incidental use and "HVAC," as that term is defined below. All such utility, janitorial and security payments shall be paid directly by Tenant prior to the date on which the same are due to the utility provider, janitorial company and/or security company, as applicable. In the event the cost of any utilities provided to the Property are paid for by Landlord, Landlord shall have the right to include such cost in Operating Costs. It is understood and agreed that Tenant shall make its own arrangements for the provision of all utilities and services and that Landlord shall be under no obligation to furnish any utilities.

4.7 Late Payment of Rent. If any installment of Annual Fixed Rent or Additional Rent is not paid within five (5) days after the date due, it shall bear interest (as Additional Rent) from the date due until the date paid at the Default Rate (as defined in Section 8.4). In addition, if any installment of Annual Fixed Rent or Additional Rent is unpaid for more than five (5) days after the date due, Tenant shall pay to Landlord a late charge equal to the greater of One Hundred Dollars (\$100.00) or five percent (5%) of the delinquent amount. The parties agree that the amount of such late charge represents a reasonable estimate of the cost and expense that would be incurred by Landlord in processing and administration of each delinquent payment by Tenant, but the payment of such late charges shall not excuse or cure any default by Tenant under this Lease. Absent specific provision to the contrary, all Additional Rent shall be due and payable in full ten (10) Business Days after written demand by Landlord. Notwithstanding the foregoing, no interest or later charge shall be due for the first missed payment in any calendar year, if Tenant pays the past-due amount within ten (10) days after written notice of the past-due amount from Landlord.

4.8 Security Deposit. Upon execution of this Lease, Tenant shall deposit with Landlord the Security Deposit. The Security Deposit shall be held by Landlord as security for the faithful performance of all the terms of this Lease to be observed and performed by Tenant. The Security Deposit shall not be mortgaged, assigned, transferred or encumbered by Tenant and any such act on the part of Tenant shall be without force and effect and shall not be binding upon Landlord.

4.8.1 Conditional Reduction of Security Deposit Amount. The initial amount of the Security Deposit, as set forth in Section 1.1, is [***]. Provided that there is no then-existing Default of Tenant as of each of the Reduction Dates identified below, then upon each Reduction Date the amount of the Security Deposit shall be reduced by [***] ("Reduction Amount"). Tenant shall provide Landlord written notice of the occurrence of each Reduction Date, and Landlord shall return the Reduction Amount to Tenant within thirty (30) days following Landlord's receipt of such notice (or, if Tenant posted the Security Deposit in the form of a Letter of Credit, as defined below, then Tenant may reduce the amount of the Letter of Credit by [***] following the applicable Reduction Date). In no event shall the amount of the Security Deposit be reduced as provided above by more than [***] in any Lease Year, or be reduced as provided above to less than [***]. The "Reduction Dates" shall mean the first day of the twenty-fifth (25th) Lease Month, the first

day of the thirty-seventh (37th) Lease Month, and the first day of the forty-ninth (49th) Lease Month.

4.8.2 Use of Letter of Credit. Tenant shall have the right to post the Security Deposit in the form of a letter of credit (the "Letter of Credit"), which shall (a) be unconditional and irrevocable and otherwise in form and substance reasonably satisfactory to Landlord; (b) permit multiple draws; (c) be issued by a commercial bank reasonably acceptable to Landlord from time to time (and Landlord hereby approves Silicon Valley Bank); (d) be made payable to, and expressly transferable and assignable by, Landlord; (e) be payable at sight upon presentment of a sight draft accompanied by a certificate of Landlord stating either that Tenant is in default under this Lease or that Landlord is otherwise permitted to draw upon such Letter of Credit under the express terms of this Lease, and the amount that Landlord is owed (or is permitted to draw) in connection therewith; and (f) shall expire ninety (90) days following the expiration of the Term of this Lease. Tenant shall maintain the Letter of Credit in the amount of the Security Deposit. Any fee or other charge payable in connection with a transfer or assignment of the Letter of Credit by Landlord shall be paid by Tenant to the issuing bank upon demand of Landlord, and if not so paid by Tenant, then such fee or charge may be paid by Landlord and Tenant shall reimburse Landlord therefor as Additional Rent. Notwithstanding anything in this Lease to the contrary, any grace period or cure periods which are otherwise applicable under Section 8.1 hereof, shall not apply to any of the foregoing, and, specifically, if Tenant fails to comply with the requirements of subsection (f) above or if Tenant shall fail to maintain the Letter of Credit in the full amount of the Security Deposit after any draw thereon by Landlord, Landlord shall have the immediate right to draw upon the Letter of Credit in full and hold the proceeds thereof as a cash security deposit. The Letter of Credit shall be issued by a commercial bank that has a credit rating with respect to certificates of deposit, short term deposits or commercial paper of at least P-2 (or equivalent) by Moody's Investor Service, Inc., or at least A-2 (or equivalent) by Standard & Poor's Corporation. If the issuer's credit rating is reduced below P-2 (or equivalent) by Moody's Investor Service, Inc., or at least A-2 (or equivalent) by Standard & Poor's Corporation, or if the financial condition of the issuer changes in any other materially adverse way, then Landlord shall have the right to require that Tenant obtain from a different issuer a substitute Letter of Credit that complies in all respects with the requirements of this Section, and Tenant's failure to obtain such substitute Letter of Credit within ten (10) days after Landlord's demand therefor (with no other notice, or grace or cure period being applicable thereto) shall entitle Landlord immediately to draw upon the existing Letter of Credit in full, without any further notice to Tenant. Landlord may use, apply or retain the proceeds of the Letter of Credit to the same extent that Landlord may use, apply or retain any cash security deposit, as set forth herein. Landlord may draw on the Letter of Credit, in whole or in part, at Landlord's election. If Landlord draws against the Letter of Credit, Tenant shall, within five (5) days after notice from Landlord, provide Landlord with either an additional Letter of Credit in the amount so drawn or an amendment to the existing Letter of Credit restoring the amount thereof to the amount initially provided. Tenant hereby agrees to cooperate promptly, at its expense with Landlord to execute and deliver to Landlord any modifications, amendments and replacements of the Letter of Credit, as Landlord may reasonably request to carry out the terms and conditions hereof.

4.8.3 In General. If the Rent payable hereunder shall be overdue and unpaid or should Landlord make any payment on behalf of Tenant, or Tenant shall fail to perform any of the terms of this Lease, or upon any other Default of Tenant, then Landlord may, at its option and

without notice or prejudice to any other remedy which Landlord may have on account thereof, appropriate and apply the entire Security Deposit or so much thereof as may be reasonably necessary to compensate Landlord toward the payment of Rent or other sums or loss or damage sustained by Landlord due to such breach by Tenant (including, without limitation, past due and thereafter due rent), and Tenant shall forthwith upon demand restore the Security Deposit to the amount stated in Section 1.1. Notwithstanding the foregoing, upon the application by Landlord of all or any portion of the Security Deposit (with or without notice thereof to Tenant) to compensate Landlord for a failure by Tenant to pay any Rent when due or to perform any other obligation hereunder, and until Tenant shall have restored the Security Deposit to the amount required by Section 1.1, Tenant shall be deemed to be in default in the payment of Additional Rent for purposes of Section 8.1(a) hereof. Tenant hereby waives the provisions of Section 1950.7 of the California Civil Code, or any successor statute, and all other provisions of law, now or hereafter in effect, which (i) establish the time frame by which a landlord must refund a security deposit under a lease, and/or (ii) provide that a landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of rent, to repair damage caused by a tenant or to clean the premises, it being agreed that Landlord may, in addition, claim those sums specified in this Section above and/or those sums reasonably necessary to compensate Landlord for any loss or damage caused by Tenant's default of this Lease, including, but not limited to, all damages or rent due upon termination of Lease pursuant to Section 1951.2 of the California Civil Code. So long as no Default of Tenant exists, Landlord shall return the Security Deposit, or so much thereof as shall have not theretofore been applied in accordance with the terms of this Section 4.8 (and less any amounts Landlord shall reasonably estimate shall be due from Tenant following year-end reconciliation of Operating Costs and Taxes), to Tenant within thirty (30) days after the expiration or earlier termination of the Term of this Lease and the surrender of possession of the Premises by Tenant to Landlord in accordance with the terms of this Lease. While Landlord holds the Security Deposit, Landlord shall have no obligation to pay interest on the same and shall have the right to commingle the same with Landlord's other funds. If Landlord conveys Landlord's interest under this Lease, the Security Deposit, or any part thereof not previously applied, shall be turned over by Landlord to Landlord's grantee, and Tenant shall look solely to such grantee for proper application of the Security Deposit in accordance with the terms of this Section 4.8 and the return thereof in accordance herewith. The holder of a mortgage on the Property shall not be responsible to Tenant for the return or application of the Security Deposit, whether or not it succeeds to the position of Landlord hereunder, unless such holder actually receives the Security Deposit.

ARTICLE 5

Landlord's Covenants

5.1 Affirmative Covenants. Landlord shall, during the Term of this Lease provide the following:

5.1.1 Heat and Air-Conditioning. Landlord shall provide access to heat, ventilation and air-conditioning ("HVAC") systems for the Building in their currently existing, "as-is" condition, subject to Landlord's obligations under Section 3.2.1, Section 3.3, and Section 6.1.3 below.

5.1.2 Electricity. Landlord shall provide access to the electrical system to the Premises in its currently existing, "as-is" condition, subject to Landlord's obligations under

Section 3.2.1. Landlord confirms that electrical service to the Property is currently separately metered at the Building, and Tenant shall pay all charges for such electrical service directly to the provider as set forth in Section 4.6 above.

5.1.3 Cleaning; Water. As part of Operating Costs, Landlord shall provide cleaning, maintenance and landscaping to the areas on the Property located outside the Building (including snow removal to the extent necessary to maintain reasonable access to and use of the Building and parking spaces located on the Property) in accordance with standards generally prevailing throughout the Term hereof in comparable research and development buildings in the north San Jose area. In addition, Landlord shall provide the currently existing water and sewer systems to the Premises in their currently existing, "as-is" condition, subject to Landlord's obligations under Section 3.3. Landlord confirms that water and sewer service are currently separately metered at the Building, and Tenant shall pay all charges for such services directly to the provider as set forth in Section 4.6 above.

5.1.4 Lighting. As part of Operating Costs, Landlord shall purchase and install all building standard lamps, tubes, bulbs, starters and ballasts for lighting fixtures in the Premises; and provide lighting to public and common areas of the Property.

5.1.5 Repairs. Landlord shall make such repairs and replacements to the roof, exterior walls and windows, floor slabs and other structural components of the Building, and to all improvements, facilities and landscaping located outside of Building (including, without limitation, all parking areas and drive aisles) as may be necessary to keep them in good repair and condition and in compliance with all applicable laws, codes and regulations (exclusive of equipment installed by Tenant and, subject to Section 4.5.4, repairs or replacements occasioned by any act or negligence of Tenant, its servants, agents, customers, contractors, employees, invitees, or licensees). Landlord shall be permitted to include in Operating Costs any costs or expenses incurred by Landlord to comply with all applicable laws, codes and regulations to the extent consistent with the terms of Section 4.2.2 above, subject to Section 4.2.3.

5.2 Interruption. Landlord shall have no responsibility or liability to Tenant for failure, interruption, inadequacy, defect or unavailability of any services, facilities, utilities, repairs or replacements or for any failure or inability to provide access or to perform any other obligation under this Lease caused by breakage, accident, fire, flood or other casualty, strikes or other labor trouble, order or regulation of or by any governmental authority, inclement weather, repairs, inability to obtain or shortages of utilities, supplies, labor or materials, war, civil commotion or other emergency, transportation difficulties or due to any act or neglect of Tenant or Tenant's servants, agents, employees or licensees or for any other cause beyond the reasonable control of Landlord, and in no event shall Landlord be liable to Tenant for any indirect or consequential damages suffered by Tenant due to any such failure, interruption, inadequacy, defect or unavailability; and failure or omission on the part of Landlord to furnish any of same for any of the reasons set forth in this paragraph shall not be construed as an eviction of Tenant, actual or constructive, nor entitle Tenant to an abatement of rent, nor render Landlord liable in damages, nor release Tenant from prompt fulfillment of any of its covenants under this Lease.

In the event that, after the Commencement Date (i) Tenant is prevented from using, and does not use, the Premises or any portion thereof as a result of any repair, maintenance or alteration

performed by Landlord, or (ii) Landlord's failure to perform any repair, maintenance or alteration required of Landlord by this Lease which substantially interferes with Tenant's use of or ingress to or egress from the Premises after the Commencement Date (in either case, an "Abatement Event"), Tenant shall give Landlord notice of such Abatement Event, and if such Abatement Event continues for five (5) consecutive days after Landlord's receipt of any such notice (the "Eligibility Period"), provided that such Abatement Event does not result from and is not attributable to any act, omission or negligence of any Tenant Party (as hereinafter defined), then the Annual Fixed Rent and Tenant's Percentage of Taxes and Operating Costs shall be abated or reduced, as the case may be, after expiration of the Eligibility Period for such time that Tenant continues to be so prevented from using, and does not use, the Premises, or a portion thereof, in the proportion that the rentable area of the portion of the Premises that Tenant is prevented from using, and does not use ("Unusable Area"), bears to the total rentable area of the Premises; provided, however, in the event that Tenant is prevented from using, and does not use, the Unusable Area for a period of time in excess of the Eligibility Period and the remaining portion of the Premises is not sufficient to allow Tenant to effectively conduct its business therein, and if Tenant does not conduct its business from such remaining portion, then for such time after expiration of the Eligibility Period during which Tenant is so prevented from effectively conducting its business therein, the Annual Fixed Rent and Tenant's Percentage of Taxes and Operating Costs for the entire Premises shall be abated for such time as Tenant continues to be so prevented from using, and does not use, the Premises. Such right to abate Annual Fixed Rent and Tenant's Percentage of Taxes and Operating Costs shall be Tenant's sole and exclusive remedy at law or in equity for an Abatement Event.

Landlord reserves the right to deny access to the Building and to interrupt the services of the HVAC, plumbing, electrical or other mechanical systems or facilities in the Building when necessary from time to time by reason of accident or emergency, or for repairs, alterations, replacements or improvements reasonably coordinated and scheduled in advance with Tenant, which in the reasonable judgment of Landlord are desirable or necessary, until such repairs, alterations, replacements or improvements shall have been completed. Landlord shall use reasonable efforts to minimize the duration of any such interruption and shall give to Tenant at least ten (10) Business Days' notice if service is to be interrupted, except in cases of emergency.

5.3 Access to Building. Subject to the provisions of Section 5.2 and the Rules and Regulations, Tenant shall have exclusive possession of the Premises and Property and shall have access to the Premises and Property at all times during the Term.

ARTICLE 6

Tenant's Additional Covenants

6.1 Affirmative Covenants. Tenant shall do the following:

6.1.1 Perform Obligations. Tenant shall perform promptly all of the obligations of Tenant set forth in this Lease, and pay when due the Rent and all other amounts which by the terms of this Lease are to be paid by Tenant.

6.1.2 Use. Tenant shall, during the Term of this Lease, use the Premises only for the Permitted Uses and procure and maintain all licenses and permits necessary therefor and for any other use or activity conducted at the Premises, at Tenant's sole expense. The Permitted Uses

shall expressly exclude use for utility company offices, or employment agency or governmental or quasi-governmental offices.

6.1.3 Repair and Maintenance. Except as with respect to Landlord's obligations set forth in this Lease (including, without limitation, items specified in Article 5), Tenant shall, during the Term of this Lease, maintain the Premises in neat and clean order and condition and perform all repairs to the Premises and all fixtures, systems, and equipment therein (including Tenant's equipment and other personal property and all HVAC equipment) as are necessary to keep them in good and clean working order, appearance and condition, reasonable use and wear thereof and damage by fire or by unavoidable casualty only excepted and shall replace any damaged or broken glass in interior windows and doors of the Premises (excluding glass in the exterior walls of the Building) with glass of the same quality as that damaged or broken. Tenant hereby waives any and all rights under and benefits of subsection 1 of Section 1932 and Sections 1941 and 1942 of the California Civil Code or under any similar law, statute, or ordinance now or hereafter in effect.

Notwithstanding anything set forth in this Lease to the contrary, the following shall apply with respect to those HVAC units that (i) are existing on the roof of the Building as of the date of this Lease, (ii) were originally installed in approximately 1995, and (iii) and are not replaced by Landlord under the terms of Section 3.2.1.3 above (such HVAC units, the "Original HVAC Units"):

(a) Tenant shall be responsible for the repair and maintenance of all HVAC equipment; provided, however, in the event that the cost of any repairs (exclusive of the cost of regularly-scheduled servicing of the Original HVAC Units) to any particular Original HVAC Unit exceeds \$1,500.00 in any calendar year, then Landlord shall reimburse Tenant for all actual and reasonable third party costs incurred by Tenant in connection with the repair of such Original HVAC Unit within thirty (30) days after receipt of Tenant's written demand therefor along with reasonable documentation evidencing such costs incurred by Tenant.

(b) In the event that the cost of any repairs (exclusive of the costs of regularly-scheduled servicing of the Original HVAC Units) to any particular Original HVAC Unit exceeds \$5,000.00 in any calendar year, Landlord shall promptly replace such Original HVAC Unit at Landlord's sole cost and expense (and not to be passed through to Tenant as part of Operating Costs).

(c) In the event any Original HVAC Unit is replaced during the Term, such replacement HVAC unit shall no longer be deemed to be an Original HVAC Unit.

Landlord agrees to use commercially reasonable efforts to enforce any warranties for HVAC units serving the Premises which are to be repaired and maintained by Tenant.

6.1.4 Compliance with Law. Subject to Landlord's obligations set forth in Section 5.1.5 above, Tenant shall, during the Term of this Lease, make all repairs, alterations, additions or replacements to the Premises required by any law or ordinance or any order or regulation of any public authority, keep the Premises safe and equipped with all safety appliances so required, and comply with, and perform all repairs, alterations, additions or replacements

required by, the orders and regulations of all governmental authorities with respect to zoning, building, fire, health and other codes, regulations, ordinances or laws applicable to the Premises or applicable to the Building or other portions of the Property and arising out of any use being conducted in or on the Premises or arising out of any work performed by Tenant.

6.1.5 Indemnification. Tenant shall neither hold, nor attempt to hold, Landlord or its employees or Landlord's agents or their employees liable for, and subject to Section 4.5.4, Tenant shall indemnify and hold harmless Landlord, its employees and Landlord's agents and their employees from and against, any and all demands, claims, causes of action, fines, penalties, damage, liabilities, judgments and expenses (including, without limitation, attorneys' fees, costs and disbursements) (collectively, "Claims") incurred in connection with or arising from: (a) the use or occupancy or manner of use or occupancy of the Premises by Tenant or any person claiming under Tenant; (b) any matter occurring on the Premises during the Term; (c) any acts, omissions or negligence of Tenant or any person claiming under Tenant, or the contractors, agents, employees, invitees or visitors of Tenant or any such person; (d) any breach, violation or nonperformance by Tenant or any person claiming under Tenant or the employees, agents, contractors, invitees or visitors of Tenant or any such person of any term, covenant or provision of this Lease or any law, ordinance or governmental requirement of any kind; (e) claims of brokers or other persons for commissions or other compensation arising out of any actual or proposed sublease of any portion of the Premises or assignment of Tenant's interest under this Lease, or Landlord's denial of consent thereto or exercise of any of Landlord's other rights under Section 6.2.1; and (f) any injury or damage to the person, property or business of Tenant, its employees, agents, contractors, invitees, visitors or any other person entering upon the Property under the express or implied invitation of Tenant. If any action or proceeding is brought against Landlord or its employees or Landlord's agents or their employees by reason of any such claim, Tenant, upon notice from Landlord, shall defend the same, at Tenant's expense, with counsel reasonably satisfactory to Landlord. Notwithstanding the foregoing in no event shall this Section 6.1.5 require Tenant to indemnify or defend Landlord or its employees or Landlord's agents or their employees against any Claim to the extent arising out of the negligence or willful misconduct of Landlord or its employees or Landlord's agents or contractors or their respective employees.

Subject to all limitations, waivers, exclusions and conditions contained in this Lease (each of which shall control in the event of any conflict or inconsistency with this paragraph), Landlord shall defend and indemnify Tenant and its directors, officers, agents and employees (individually, a "Tenant Party", and collectively, the "Tenant Parties") against and from any and all claims, liabilities or penalties asserted by or on behalf of any third party on account of bodily injury or death or damage to the property of such third party (excluding damage to the property of any subtenant or assignee of Tenant) arising out of the negligence or other wrongful conduct of Landlord or its agents, contractors or employees during the term of this Lease. In case of any action or proceeding brought against Tenant by reason of any such claim, Landlord, upon notice from Tenant, shall resist or defend such action or proceeding and employ counsel therefor reasonably satisfactory to Tenant. The Landlord indemnification obligations set forth in this paragraph shall survive the expiration or earlier termination of this Lease.

6.1.6 Landlord's Right to Enter. Tenant shall, during the Term of this Lease, permit Landlord and its agents and invitees to enter into and examine the Premises at reasonable times, upon not less than two (2) Business Days' prior notice (except, in the event of an emergency,

only notice reasonable under the circumstances shall be required) and to show the Premises to prospective lessees, during the last twelve (12) months prior to the expiration of this Lease, lenders, partners and purchasers and others having a bonafide interest in the Premises, and to make such repairs, alterations and improvements and to perform such testing and investigation as Landlord shall reasonably determine to make or perform, and, during the last six (6) months prior to the expiration of this Lease, to keep affixed in suitable places notices of availability of the Premises. With respect to any entry onto the Premises made by Landlord in accordance with the terms of this Section 6.1.6 or any other provision of this Lease, Tenant shall have the right to have a representative of Tenant accompany Landlord within the Premises, provided that such representative is made available at the time of Landlord's entrance onto the Premises, and provided that such representative does not unreasonably interfere with Landlord's rights under this Section 6.1.6. Additionally, Tenant may designate certain areas of the Premises as "Secured Areas" should Tenant require such areas for the purpose of securing certain valuable property or confidential information. In connection with the foregoing, Landlord shall not enter such Secured Areas except in the event of an emergency. To the extent access to any Secured Areas is necessary to perform any of Landlord's obligations under this Lease, then unless Tenant provides access to the applicable Secured Areas, Landlord shall be excused from performing such obligations during the period of time which Tenant refuses to provide Landlord with such necessary access and to the extent such non-performance by Landlord causes costs to be incurred that are in excess of the costs that would have been incurred by Landlord in connection with such obligation had Landlord been provided access to the Secured Areas, then Tenant shall be solely responsible for such excess costs. Notwithstanding anything to the contrary in this Section 6.1.6, if Landlord or its employees, agents or contractors requires entry into any Secured Areas in connection with any determination of the Premises' compliance with applicable laws, or if any governmental agency, or its employees, agents or contractors, require entry into any Secured Areas, then Tenant shall not have the option to deny consent to any such entry (subject to the other terms and conditions of this Section 6.1.6).

6.1.7 Payment of Landlord's Cost of Enforcement. Tenant shall pay on demand Landlord's expenses, including, without limitation, reasonable attorneys' fees, costs and disbursements, incurred in enforcing any obligation of Tenant under this Lease.

6.1.8 Yield Up. Tenant shall, at the expiration or earlier termination of the Term of this Lease: surrender all keys to the Premises; remove all of its trade fixtures and personal property in the Premises; remove such installations (including wiring and cabling wherever located), alterations and improvements made (or if applicable, restore any items removed) by or on behalf of Tenant as Landlord may request and all Tenant's signs wherever located; repair all damage caused by such removal; and vacate and yield up the Premises (including all installations, alterations and improvements made by or on behalf of Tenant except as Landlord shall request Tenant to remove), broom clean and in the same good order and repair in which Tenant is obliged to keep and maintain the Premises by the provisions of this Lease. Notwithstanding the foregoing, Tenant shall have no obligation to remove the initial improvements constructed by Tenant as part of the Tenant's Work at the expiration or earlier termination of the Term of this Lease or otherwise restore the Premises to the condition existing prior to the installation of such initial improvements, unless Landlord indicates at the time Landlord reviews and approves Tenant's Plans pursuant to Section 3.2.2 above that Landlord will require Tenant to remove a particular improvement(s) at the expiration or earlier termination of the Term of this Lease. Any property not so removed shall be deemed abandoned and may be removed and disposed of by Landlord in such manner as

Landlord shall determine and Tenant shall pay Landlord the entire cost and expense incurred by it in effecting such removal and disposition. The terms of this Section 6.1.8 shall survive the expiration or earlier termination of this Lease.

6.1.9 Rules and Regulations. Tenant shall, during the Term of this Lease, observe and abide by the Rules and Regulations of the Building set forth as Exhibit C, as the same may from time to time be reasonably amended, revised or supplemented (the “Rules and Regulations”). Tenant shall further be responsible for compliance with the Rules and Regulations by the employees, servants, agents and visitors of Tenant. Notwithstanding anything to the contrary contained herein, (i) all Rules and Regulations (wherever and however referenced in this Lease) shall be reasonable and shall not be enforced against Tenant in a discriminatory manner, (ii) in no event shall any such Rules and Regulations increase the monetary obligations owing from Tenant to Landlord under this Lease or otherwise materially increase the obligations or materially diminish the rights of Tenant under this Lease, and (iii) in case of any conflict between the Rules and Regulations and any subsequent amendments, revisions or supplements thereto and the terms of this Lease, the terms of this Lease shall control.

6.1.10 Estoppel Certificate. Tenant shall, within ten (10) Business Days’ following written request by Landlord, execute, acknowledge and deliver to Landlord a statement in form reasonably satisfactory to Landlord in writing certifying that this Lease is unmodified and in full force and effect and that Tenant has no defenses, offsets or counterclaims against its obligations to pay the Rent and any other charges and to perform its other covenants under this Lease (or, if there have been any modifications, that this Lease is in full force and effect as modified and stating the modifications and, if there are any defenses, offsets or counterclaims, setting them forth in reasonable detail), the dates to which the Rent and other charges have been paid, and any other reasonable matter pertaining to this Lease. Any such statement delivered pursuant to this Subsection 6.1.10 may be relied upon by any prospective purchaser or mortgagee of the Property, or any prospective assignee of such mortgage.

Landlord shall, within ten (10) Business Days’ following written request by Tenant, execute, acknowledge and deliver to Tenant a written statement, in a commercially reasonable form, certifying that this Lease is unmodified and in full force and effect, and the dates to which the Rent and other charges have been paid. Any such statement delivered pursuant to this Subsection 6.1.10 may be relied upon by any prospective purchaser, lender, assignee, or subtenant of Tenant.

6.1.11 Landlord’s Expenses For Consents. Tenant shall reimburse Landlord, as Additional Rent, promptly on demand for all reasonable legal, engineering and other professional services expenses incurred by Landlord in connection with all requests by Tenant for consent or approval hereunder. Notwithstanding the foregoing, in no event shall Tenant be required to reimburse Landlord for any expenses incurred by Landlord in connection with the negotiation of this Lease, Landlord’s Work, or the initial Tenant’s Work.

6.1.12 Data Obligations. Tenant shall submit to Landlord, within thirty (30) days of request, but not more frequently than semi-annually, any non-proprietary waste management, recycling, energy and water consumption data, including usage and charges as they may appear on any utility bills received by Tenant, as Tenant has readily available. Landlord shall provide such

non-proprietary, current information relating to Property energy and water consumption, waste management and recycling as Landlord has readily available, within thirty (30) days of request by Tenant, not more frequently than semi-annually.

6.2 Negative Covenants. Tenant shall not do the following.

6.2.1 Assignment and Subletting. Tenant shall not assign, mortgage, pledge, hypothecate, encumber or otherwise transfer this Lease or any interest herein or sublease (which term shall be deemed to include the granting of concessions and licenses and the like) all or any part of the Premises or suffer or permit this Lease or the leasehold estate hereby created or any other rights arising under this Lease to be assigned, transferred, mortgaged, pledged, hypothecated or encumbered, in whole or in part, whether voluntarily, involuntarily or by operation of law, or permit the use or occupancy of the Premises by anyone other than Tenant except as set forth below.

If Tenant intends to enter into any sublease or assignment, Tenant shall, not later than thirty (30) days prior to the proposed commencement of such sublease or assignment, give Landlord notice thereof, which notice shall set forth in reasonable detail the proposed subtenant or assignee, the terms and conditions of the proposed sublease or assignment and information regarding the financial condition of the proposed subtenant or assignee. Tenant shall promptly provide Landlord with such additional information with respect to such subtenant or assignee as Landlord may reasonably request, provided that Tenant may withhold or redact any proprietary information regarding such subtenant or assignee.

Landlord shall not unreasonably delay, condition or withhold its consent to any sublease or assignment, provided that there is no then-existing Event of Default, and provided that, in addition to any other reasonable grounds for withholding of consent, Landlord may withhold its consent if in Landlord's good faith judgment: (i) the proposed assignee or subtenant does not have a financial condition reasonably acceptable to Landlord; (ii) intentionally omitted; (iii) the proposed assignee or subtenant is a business competitor of Landlord or is an affiliate of a business competitor of Landlord; (iv) the identity of the proposed assignee or subtenant is, or the intended use of any part of the Premises, would be, in Landlord's reasonable determination, inconsistent with first-class office, research and/or development space or any covenants, conditions or restrictions binding on Landlord or applicable to the Property; (v) intentionally omitted; or (vi) any such sublease shall result in the Premises being occupied by more than three (3) parties (including Tenant) at any one time. Landlord shall provide Tenant with written notice of its consent to or disapproval of the proposed sublease or assignment (along with specific reasons for any disapproval) within thirty (30) days after Tenant's notice of the proposed sublease or assignment. In the event that Landlord fails to notify Tenant in writing of such approval or disapproval within such thirty (30) day period, Tenant may deliver written notice to Landlord (an "Additional Transfer Approval Notice") stating in all caps print that LANDLORD'S FAILURE TO RESPOND WITHIN FIVE (5) BUSINESS DAYS FOLLOWING LANDLORD'S RECEIPT SUCH ADDITIONAL TRANSFER APPROVAL NOTICE SHALL BE DEEMED TO BE LANDLORD'S APPROVAL OF THE PROPOSED TRANSFER. At the end of such five (5) business day period, if Landlord has failed to respond, then Landlord shall be deemed to have approved such sublease or assignment.

Any transaction or series of transactions, whether by merger, transfer of stock, partnership interests, membership interests or other equitable and/or beneficial interests, or otherwise (excluding transfers of stock, partnership interests, membership interests or other equitable and/or beneficial interests effected through a nationally recognized securities exchange), that results in a Change of Control (as hereinafter defined) shall be deemed to be an assignment of this Lease. "Change of Control" means (a) any change of direct or indirect ownership of more than fifty percent (50%) of the voting stock, partnership interests, membership interests or other equitable and/or beneficial interests of Tenant, (b) any change of direct or indirect power (whether or not exercised) to elect a majority of the directors of Tenant, or (c) the transfer of all or substantially all of Tenant's assets.

If Landlord consents to a sublease or assignment, as a condition thereto which the parties hereby agree is reasonable, Tenant shall pay to Landlord fifty percent (50%) of any Transfer Premium, received by Tenant from such subtenant or assignee. "Transfer Premium" shall mean all rent, additional rent or other consideration payable by such subtenant or assignee in connection with the sublease or assignment in excess of the Annual Fixed Rent and Additional Rent payable by Tenant under this Lease during the term of the sublease or assignment on a per rentable square foot basis if less than all of the Premises is transferred, after deducting the reasonable out-of-pocket expenses incurred by Tenant for (i) any changes, alterations and improvements to the Premises in connection with the sublease or assignment, (ii) any free base rent reasonably provided to the subtenant or assignee, (iii) any brokerage commissions in connection with the sublease or assignment, and (iv) any other reasonable, out of pocket costs paid by Tenant, such as legal fees in connection with the sublease or assignment. Transfer Premium shall also include, but not be limited to, key money, bonus money or other cash consideration paid by transferee to Tenant in connection with such sublease or assignment, and any payment in excess of fair market value for services rendered by Tenant to the transferee or for assets, fixtures, inventory, equipment, or furniture transferred by Tenant to the transferee in connection with such sublease or assignment.

No subletting or assignment shall in any way impair the continuing primary liability of Tenant hereunder, and no consent to any subletting or assignment in a particular instance shall be deemed to be a waiver of the obligation to obtain Landlord's written approval in the case of any other subletting or assignment. Tenant shall reimburse Landlord immediately upon demand for its reasonable attorneys' fees, costs and disbursements incurred in connection with documenting Landlord's consent to any assignment or sublease.

Notwithstanding anything to the contrary contained in this Section 6.2.1, a sublease or an assignment to an entity that is (i) an affiliate of Tenant (an entity which is controlled by, controls, or is under common control with, Tenant), (ii) an entity which acquires all or substantially all of the assets or interests (partnership, stock or other) of Tenant, or (iii) an entity which is the resulting entity of a merger or consolidation of Tenant, shall not be deemed an assignment or sublease which requires Landlord's prior written consent under Section 6.2.1, provided that (a) Tenant notifies Landlord of any such assignment or sublease and promptly supplies Landlord with any non-confidential documents or information reasonably requested by Landlord regarding such assignment or sublease or such affiliate, (b) such assignment or sublease is not a subterfuge by Tenant to avoid its obligations under this Lease, (c) in connection with an assignment, the assignee shall have a tangible net worth computed in accordance with generally accepted accounting principles consistently applied (and excluding goodwill, organization costs and other intangible

assets) is at least equal to the net worth of Tenant (x) immediately prior to such merger, consolidation, conversion or transfer, or (y) on the date of this Lease, whichever is greater, (d) proof satisfactory to Landlord of such net worth is delivered to Landlord at least ten (10) days prior to the effective date of any such assignment, and (e) any such transfer shall be subject and subordinate to all of the terms and provisions of this Lease, and the transferee shall assume, in a written document reasonably satisfactory to Landlord and delivered to Landlord upon or prior to the effective date of such transfer, all the obligations of Tenant under this Lease. Landlord shall hold all documents and information obtained from Tenant in connection with this Section 6.2.1 in strict confidence and shall not disclose such documents and information to any third parties other than Landlord's financial, legal, and space planning consultants and to investors, lenders, consultants, accountants and assignees, or to the extent that disclosure is mandated by court order or applicable laws. A transfer specified in items (i), (ii) or (iii) above shall be referred to as a "Permitted Transfer" and the transferee under any such Permitted Transfer shall be referred to as a "Permitted Transferee." "Control," as used in this Section 6.2.1, shall mean the ownership, directly or indirectly, of more than fifty percent (50%) of the voting securities of, or possession of the right to vote, in the ordinary direction of its affairs, of more than fifty percent (50%) of the voting interest in, any person or entity. Landlord shall have no right to any Transfer Premium or any other sums or economic consideration resulting from a Permitted Transfer.

6.2.2 Nuisance. Tenant shall not: injure, deface or otherwise harm the Premises; commit any nuisance; permit in the Premises any inflammable fluids or chemicals (subject to Section 6.2.7 below); permit any cooking to such extent as requires special exhaust venting, except as otherwise approved pursuant to Tenant's Plans; permit the emission of any objectionable noise or odor; make, allow or suffer any waste; make any use of the Premises which is improper, offensive or contrary to any law or ordinance or which will invalidate or increase the premiums for any of Landlord's insurance or which is liable to render necessary any alteration or addition to the Building; or conduct any auction, fire, "going out of business" or bankruptcy sales.

6.2.3 Floor Load; Heavy Equipment. Tenant shall not place a load upon any floor of the Premises exceeding the lesser of the floor load capacity which such floor was designed to carry or which is allowed by law.

6.2.4 Electricity. Tenant shall not connect to the electrical distribution system serving the Premises a total load exceeding the lesser of the capacity of such system or the maximum load permitted from time to time under applicable governmental regulations.

6.2.5 Installation, Alterations or Additions. Tenant shall not make any installations, alterations or additions in, to or on the Premises nor permit the making of any holes in the walls, partitions, ceilings or floors without on each occasion obtaining the prior consent of Landlord, and then only pursuant to plans and specifications approved by Landlord in advance in each instance. Landlord shall not unreasonably withhold, condition or delay its consent to any proposed installations, alterations or additions in, to or on the Premises or any plans or specifications therefor. All work to be performed to the Premises by Tenant shall (a) be performed in a good and workmanlike manner by contractors approved in advance by Landlord and in compliance with the provisions of Exhibit D attached hereto and all applicable zoning, building, fire, health and other codes, regulations, ordinances and laws, (b) be made at Tenant's sole cost and expense and at such times and in such a manner as Landlord may from time to time designate,

and (c) become part of the Premises and the property of Landlord without being deemed additional rent for tax purposes, Landlord and Tenant agreeing that Tenant shall be treated as the owner for tax purposes until the expiration or earlier termination of the Term hereof, subject to Landlord's rights pursuant to Section 6.1.8 to require Tenant to remove the same at or prior to the expiration or earlier termination of the Term hereof. Tenant shall pay promptly when due the entire cost of any work to the Premises so that the Premises, Building and Property shall at all times be free of liens for labor and materials. Prior to the commencement of any such work, and throughout and until completion thereof, Tenant shall maintain, or cause to be maintained, the insurance required by Exhibit E attached hereto, all with coverage limits as stated therein or such higher limits as shall be reasonably required by Landlord. Whenever and as often as any mechanic's or materialmen's lien shall have been filed against the Property based upon any act of Tenant or of anyone claiming through Tenant, Tenant shall within ten (10) days of notice from Landlord to Tenant take such action by bonding, deposit or payment as will remove or satisfy the lien. Notwithstanding the foregoing, Tenant shall have the right from time-to-time during the Term, without Landlord's prior consent and without prior notice to Landlord, to remove from the Premises and/or replace its movable furniture, equipment, trade fixtures, artwork, and other personal property. In addition, subject to the terms set forth below, Tenant shall be permitted to make alterations to the interior of the Premises without Landlord's consent (the "Approved Alterations") to the extent that such alterations (A) comply with the other terms and conditions (unrelated to Landlord's consent rights and approval process herein) set forth in this Section 6.2.5 for alterations, unless such terms and conditions are inapplicable to such Alterations because of the nature of such alterations or unless specifically stated otherwise herein, (B) do not affect the structural integrity of the Premises or Building, or any Building systems or equipment, (C) are not visible from the exterior of the Premises, (D) do not require a building or construction permit, and (E) cost less than \$100,000.00 per calendar year (collectively, the "Approved Alteration Requirements"). Notwithstanding anything to the contrary herein, Tenant may make such Approved Alterations without Landlord's consent, but Tenant shall provide copies of all plans and other specifications for such Approved Alterations (as applicable), as well as any other information reasonably requested by Landlord so that Landlord can confirm that Tenant's proposed Approved Alterations will conform to the Approved Alteration Requirements.

6.2.6 Signs. Subject to Tenant's receipt of all required governmental permits and approvals, compliance with all applicable laws, and Landlord's prior written approval (not to be unreasonably withheld), Tenant shall have the right, at its sole cost and expense, to install signage identifying Tenant's name or logo on the exterior of the Building (but not on the roof). The graphics, materials, color, design, lettering, lighting, size, illumination, specifications and exact location of such signage on the exterior of the Building (collectively, the "Sign Specifications") shall be subject to the prior written approval of Landlord, which approval shall not be unreasonably withheld, conditioned or delayed, and shall be consistent and compatible with the quality and nature of the Property. Should any such signage require repairs and/or maintenance, as determined in Landlord's reasonable judgment, Landlord shall have the right to provide notice thereof to Tenant and Tenant (except as set forth below) shall cause such repairs and/or maintenance to be performed within thirty (30) days after receipt of such notice from Landlord, at Tenant's sole cost and expense. Should Tenant fail to perform such repairs and/or maintenance within the periods described in the immediately preceding sentence, Landlord shall, upon the delivery of an additional five (5) Business Days' prior written notice, have the right to cause such work to be performed and to charge Tenant as Additional Rent for the actual cost of such work. Upon the expiration or earlier

termination of the Lease, Tenant shall, at Tenant's sole cost and expense, cause all such signage to be removed and shall repair the areas in which such signage was located. If Tenant fails to timely remove its signage or to repair the areas in which such signage was located, as provided in the immediately preceding sentence, then Landlord may perform such work, and all costs incurred by Landlord in so performing shall be reimbursed by Tenant to Landlord within thirty (30) days after Tenant's receipt of an invoice therefor, and the terms of this section related to such removal and repair obligation shall survive the expiration or earlier termination of this Lease.

6.2.7 Oil and Hazardous Materials.

6.2.7.1 Definitions. For purposes of this Lease, the following definitions shall apply: "Hazardous Material(s)" shall mean any solid, liquid or gaseous substance or material that is described or characterized as a toxic or hazardous substance, waste, material, pollutant, contaminant or infectious waste, or any matter that in certain specified quantities would be injurious to the public health or welfare, or words of similar import, in any of the "Environmental Laws," as that term is defined below, or any other words which are intended to define, list or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity or reproductive toxicity and includes, without limitation, asbestos, petroleum (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof), petroleum products, polychlorinated biphenyls, urea formaldehyde, radon gas, nuclear or radioactive matter, medical waste, soot, vapors, fumes, acids, alkalis, chemicals, microbial matters (such as molds, fungi or other bacterial matters), biological agents and chemicals which may cause adverse health effects, including but not limited to, cancers and/or toxicity. "Environmental Laws" shall mean any and all federal, state, local or quasi-governmental laws (whether under common law, statute or otherwise), ordinances, decrees, codes, rulings, awards, rules, regulations or guidance or policy documents now or hereafter enacted or promulgated and as amended from time to time, in any way relating to (i) the protection of the environment, the health and safety of persons (including employees), property or the public welfare from actual or potential release, discharge, escape or emission (whether past or present) of any Hazardous Materials or (ii) the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of any Hazardous Materials.

6.2.7.2 Compliance with Environmental Laws. Landlord covenants that during the Term, Landlord shall comply with all Environmental Laws in accordance with, and as required by, the terms and conditions of this Lease. Tenant represents and warrants that, except as herein set forth, it will not use, store or dispose of any Hazardous Materials in or on the Premises. In addition, Tenant agrees that it: (i) shall not cause or suffer to occur, the release, discharge, escape or emission of any Hazardous Materials at, upon, under or within the Premises or any contiguous or adjacent premises; (ii) shall not engage in activities at the Premises that could result in, give rise to, or lead to the imposition of liability upon Tenant or Landlord or the creation of a lien upon the building or land upon which the Premises is located; (iii) shall notify Landlord promptly following receipt of any knowledge with respect to any actual release, discharge, escape or emission (whether past or present) of any Hazardous Materials at, upon, under or within the Premises; and (iv) shall promptly forward to Landlord copies of all orders, notices, permits, applications and other communications and reports in connection with any release, discharge, escape or emission of any Hazardous Materials at, upon, under or within the Premises or any contiguous or adjacent premises.

6.2.7.3 Tenant Hazardous Materials. Tenant will (i) obtain and maintain in full force and effect all Environmental Permits (as defined below) that may be required from time to time under any Environmental Laws applicable to Tenant or Tenant's use of the Premises, and (ii) be and remain in compliance with all terms and conditions of all such Environmental Permits and with all other Environmental Laws. "Environmental Permits" means, collectively, any and all permits, consents, licenses, approvals and registrations of any nature at any time required pursuant to, or in order to comply with any Environmental Law. On or before the Commencement Date, and on each annual anniversary of the Commencement Date thereafter, as well as at any other time following Tenant's receipt of a reasonable request from Landlord, Tenant agrees to deliver to Landlord a list of all Hazardous Materials anticipated to be used by Tenant in the Premises and the quantities thereof. At any time following Tenant's receipt of a request from Landlord, Tenant shall promptly complete a commercially reasonable "hazardous materials questionnaire" using the form then-provided by Landlord. Upon the expiration or earlier termination of this Lease, Tenant agrees to promptly remove from the Premises, the Building and the Property, at its sole cost and expense, any and all Hazardous Materials, including any equipment or systems containing Hazardous Materials, which are installed, brought upon, stored, used, generated or released upon, in, under or about the Premises, the Building, and/or the Property or any portion thereof by Tenant and/or any Tenant Parties (such obligation to survive the expiration or sooner termination of this Lease). Nothing in this Lease shall impose any liability on Tenant for any Hazardous Materials in existence on the Premises, Building or Property prior to the Commencement Date ("Pre-Existing Hazardous Materials") or brought onto or otherwise introduced to the Premises, Building or Property after the Commencement Date by any third parties not under Tenant's control ("Third-Party Hazardous Materials").

6.2.7.4 Landlord's Right of Environmental Audit. In addition to Landlord's other access rights as provided in this Lease, Landlord may, upon reasonable notice to Tenant, be granted access to and enter the Premises no more than once annually to perform or cause to have performed an environmental inspection, site assessment or audit. Such environmental inspector or auditor may be chosen by Landlord, in its sole discretion, and be performed at Landlord's sole expense. To the extent that the report prepared upon such inspection, assessment or audit, indicates the presence of Hazardous Materials introduced to the Premises by Tenant or its agents, employees or contractors ("Tenant Hazardous Materials") in violation of Environmental Laws, or provides recommendations or suggestions to prohibit the release, discharge, escape or emission of any Tenant Hazardous Materials at, upon, under or within the Premises, or to comply with any Environmental Laws, Tenant shall promptly, at Tenant's sole expense, comply with any such commercially reasonable recommendations or suggestions, including, but not limited to performing such additional investigative or subsurface investigations or remediation(s) of Tenant Hazardous Materials as reasonably recommended by such inspector or auditor. Notwithstanding the above, if at any time, Landlord has actual notice or reasonable cause to believe that Tenant has violated, or permitted any violations of any Environmental Law, then Landlord will be entitled to perform its environmental inspection, assessment or audit at any time, notwithstanding the above mentioned annual limitation, and to the extent such environmental inspection, assessment or audit discovers the presence of Tenant Hazardous Materials in violation of Environmental Laws, Tenant must reimburse Landlord for the cost or fees incurred for such as Additional Rent.

6.2.7.5 Indemnifications. Landlord agrees to indemnify, defend, protect and hold harmless the Tenant Parties from and against any liability, obligation, damage or costs,

including without limitation, attorneys' fees and costs, resulting directly or indirectly from any use, presence, removal or disposal of (i) any Pre-Existing Hazardous Materials, and (ii) any Hazardous Materials introduced to the Premises, Building, or Property by Landlord or Landlord's agents, employees or contractors. Tenant agrees to indemnify, defend, protect and hold harmless Landlord from and against any liability, obligation, damage or costs (including without limitation, (i) attorneys' fees and costs, (ii) diminution in value of the Property or any portion thereof, and (iii) damages arising from any adverse impact on marketing of space in the Property or any portion thereof), resulting directly or indirectly from any use, presence, removal or disposal of any Tenant Hazardous Materials (excluding, without limitation, Pre-Existing Hazardous Materials and Third-Party Hazardous Materials) or breach by Tenant of any provision of this Section. The indemnification provisions in this Section 6.2.7.5 shall survive the expiration or earlier termination of this Lease.

6.2.7.6 Survival. Tenant's obligations under this Section 6.2.7 shall survive the expiration or earlier termination of this Lease. During any period of time needed by Tenant or Landlord after the termination of this Lease to complete the removal from the Premises of any Tenant Hazardous Materials, Tenant shall be deemed to be holding over in the Premises and Rent shall continue to accrue in accordance with the terms of Section 8.5 until all such removal has been completed.

6.2.7.7 Hazardous Materials Documents. Landlord acknowledges that it is not the intent of this Section 6.2.7 to prohibit Tenant from operating its business for the Permitted Use. Tenant may operate its business according to the custom of Tenant's industry (which shall include, without limitation, the right to use Hazardous Materials in accordance with the terms as set forth in this Section 6.2.7) so long as the use or presence of Hazardous Materials by Tenant is strictly and properly monitored in accordance with Environmental Laws and other applicable laws. As a material inducement to Landlord to allow Tenant to use Hazardous Materials in connection with its business, Tenant agrees to deliver to Landlord (a) a list identifying each type of Hazardous Material to be present at the Premises that is subject to regulation under any environmental applicable laws (excluding Permitted Chemicals, as defined below), (b) a list of any and all approvals or permits from governmental authorities required in connection with the presence of such Hazardous Material at the Premises and (c) correct and complete copies of (i) notices of violations of applicable laws related to Hazardous Materials and (ii) plans relating to the installation of any storage tanks to be installed in, on, under or about the Property (provided that installation of storage tanks shall only be permitted after Landlord has given Tenant its written consent to do so, which consent Landlord may withhold in its sole and absolute discretion) and closure plans or any other documents required by any and all governmental authorities for any storage tanks installed in, on, under or about the Property by a Tenant Party for the closure of any such storage tanks (collectively, "Hazardous Materials Documents"). Tenant shall deliver to Landlord updated Hazardous Materials Documents (l) no later than thirty (30) days prior to the initial occupancy of any portion of the Premises or the initial placement of equipment related to Hazardous Materials anywhere at the Property, (m) if there are any changes to the Hazardous Materials Documents, annually thereafter no later than December 31 of each year, and (n) thirty (30) days prior to the initiation by Tenant of any Alterations or changes in Tenant's business that involve any material increase in the types or amounts of Hazardous Materials. For each type of Hazardous Material listed, the Hazardous Materials Documents shall include (t) the chemical name, (u) the material state (e.g., solid, liquid, gas or cryogen), (v) the concentration, (w) the

storage amount and storage condition (e.g., in cabinets or not in cabinets), (x) the use amount and use condition (e.g., open use or closed use), (y) the location (e.g., room number or other identification) and (z) if known, the chemical abstract service number. Notwithstanding anything in this Section to the contrary, Tenant shall not be required to provide Landlord with any Hazardous Materials Documents containing information of a proprietary nature, which Hazardous Materials Documents, in and of themselves, do not contain a reference to any Hazardous Materials or activities related to Hazardous Materials. Landlord may, at Landlord's expense, cause the Hazardous Materials Documents to be reviewed by a person or firm qualified to analyze Hazardous Materials to confirm compliance with the provisions of this Lease and with applicable laws. In the event that a review of the Hazardous Materials Documents indicates non-compliance with this Lease or applicable laws, Tenant shall, at its expense, diligently take steps to bring its storage and use of Hazardous Materials into compliance. In addition, Landlord agrees that Tenant may use, store and properly dispose of commonly available household cleaners and chemicals to maintain the Premises and Tenant's routine office operations (such as printer toner and copier toner) (hereinafter the "Permitted Chemicals"). Landlord and Tenant acknowledge that any or all of the Permitted Chemicals described in this paragraph may constitute Hazardous Materials. However, Tenant may use, store and dispose of same, provided that in doing so, Tenant fully complies with all Environmental Laws.

6.2.7.8 Exit Survey. At least five (5) business days prior to Tenant's surrender of possession of any part of the Premises, Tenant shall provide Landlord with a facility decommissioning and Hazardous Materials closure plan for the Premises ("Exit Survey") prepared by an independent third party reasonably acceptable to Landlord. The Exit Survey shall comply with the American National Standards Institute's Laboratory Decommissioning guidelines (ANSI/AIHA Z9.11-2008) or any successor standards published by ANSI or any successor organization (or, if ANSI and its successors no longer exist, a similar entity publishing similar standards). In addition, at least ten (10) days prior to Tenant's surrender of possession of any part of the Premises, Tenant shall provide Landlord with written evidence of all required governmental releases obtained by Tenant in accordance with applicable laws, including laws pertaining to the surrender of the Premises. Tenant's obligations under this Section shall survive the expiration or earlier termination of the Lease.

ARTICLE 7

Casualty or Taking

7.1 Termination. In the event that the entire Premises or the Property, or any material part thereof shall be destroyed or damaged by fire or casualty, then the Term of this Lease may be terminated at the election of Landlord. Such election, shall be made by the giving of notice by Landlord to Tenant within one hundred twenty (120) days after the date of the casualty; provided, however, that if Landlord does not elect to terminate this Lease pursuant to Landlord's termination right as provided above, and the repairs/restoration of the Premises or Property cannot, in the reasonable opinion of Landlord, be completed within three hundred sixty-five (365) days after being commenced, Tenant may elect, within sixty (60) days after the date Landlord provides Tenant written notice of Landlord's opinion of the time required to complete the applicable repairs/restoration, to terminate this Lease by written notice to Landlord effective as of the date specified in the notice, which date shall not be less than thirty (30) days nor more than sixty (60) days after the date such notice is given by Tenant. In addition, in the event that the entire Premises

or the Property, or any material part thereof (and the remaining portion of the Premises or Property is not reasonably sufficient to allow Tenant to effectively conduct its business therein, and Tenant does not conduct its business from such remaining portion), shall be taken by any public authority or for any public use or shall be condemned by the action of any public authority, then the Term of this Lease may be terminated at the election of Landlord or Tenant. Such election, which may be made notwithstanding the fact that Landlord's entire interest may have been divested, shall be made by the giving of notice by Landlord or Tenant to the other party within one hundred twenty (120) days after the date of the taking. In addition to the termination rights set forth above, both Landlord and Tenant shall have the right to terminate this Lease if any damage to the Premises or the Property occurs during the last twelve (12) months of the Term and Landlord's contractor estimates in writing delivered to the parties that the repair, reconstruction or restoration of such damage cannot be completed within the earlier of (a) the scheduled expiration date of the Term, or (b) sixty (60) days after the date of such damage.

7.2 Restoration. If neither Landlord nor Tenant elects to so terminate, this Lease shall continue in force and (so long as the damage is not caused by the negligence or other wrongful act of Tenant or its employees, agents, contractors or invitees) a just proportion of the Annual Fixed Rent and Additional Rent for Taxes and Operating Costs, according to the nature and extent of the damages sustained by the Premises, shall be suspended or abated until the Premises (excluding any improvements to the Premises made at Tenant's expense) and Property, or what may remain thereof, shall be put by Landlord in proper condition for use, which Landlord covenants to do with reasonable diligence to the extent permitted by the net proceeds of insurance recovered or damages awarded for such destruction, taking, or condemnation and subject to zoning and building laws or ordinances then in existence. "Net proceeds of insurance recovered or damages awarded" means the gross amount of such insurance or damages actually made available to Landlord (and not retained by any Superior Lessor (as hereinafter defined) or Superior Mortgagee (as hereinafter defined)) less the reasonable expenses of Landlord incurred in connection with the collection of the same, including without limitation, fees and expenses for legal and appraisal services.

7.3 Award. Irrespective of the form in which recovery may be had by law, all rights to seek reimbursement for damages or compensation arising from fire or other casualty or any taking by eminent domain or condemnation shall belong to Landlord in all cases, and in the event of a termination of this Lease, Tenant shall assign to Landlord (or to any party designated by Landlord) all insurance proceeds payable to Tenant under Tenant's insurance required under Section 4.5.1.3 of this Lease that is applicable to improvements and alterations made to the Premises; provided, however, that Tenant shall be entitled to retain from such insurance proceeds an amount equal to the unamortized amount, as of the effective date of such termination of the Lease, of the cost of all improvements and betterments to the Premises performed at Tenant's expense, which costs shall be amortized (based on the straight line method of amortization) over a period equal to the initial 90-Lease Month Term of the Lease for purposes of such calculation. Tenant hereby grants to Landlord all of Tenant's rights to such claims for damages and compensation and covenants to deliver such further assignments thereof as Landlord may from time to time request. Notwithstanding the foregoing, nothing contained herein shall be construed as or require an assignment of or prevent Tenant from prosecuting in any condemnation proceedings a claim for (i) the taking of personal property, inventory or trade fixtures belonging to Tenant, (ii) the value of any alterations or improvements paid for by Tenant (and not reimbursed by Landlord's Contribution), (iii) the interruption of Tenant's business and Tenant's relocation expenses, (iv)

loss of Tenant's goodwill, or (v) any temporary taking where this Lease is not terminated as a result of such taking, and Tenant shall be entitled to receive any portion of any condemnation award made for the foregoing.

7.4 Waiver of Statutes. The provisions of this Lease, including, without limitation, this Section 7, constitute an express agreement between Landlord and Tenant with respect to any casualty or taking of all or any part of the Premises, the Building, or any other portion of the Property. Tenant, therefore, fully waives the provisions of any statute or regulation, including California Civil Code Sections 1932(2) and 1933(4), for any rights or obligations concerning a casualty, and California Code of Civil Procedure Section 1265.130 with respect to a termination this Lease based on a partial taking.

ARTICLE 8

Defaults

8.1 Default of Tenant. (a) If Tenant shall default in its obligations to pay any amount of Rent or any other charges under this Lease when due or shall default in complying with its obligations under Subsection 6.1.11 of this Lease and if any such default shall continue for ten (10) days after written notice from Landlord designating such default, or (b) if as promptly as reasonably possible but in any event within thirty (30) days after written notice from Landlord to Tenant specifying any default or defaults other than those set forth in clause (a) Tenant has not cured the default or defaults so specified, or if such default or defaults are of a nature requiring more than thirty (30) days to cure, if Tenant fails to commence to cure such default or defaults within such thirty (30) day period and thereafter diligently pursue such cure to completion, then, and in any of such cases indicated in clauses (a) and (b) hereof (collectively and individually, a "Default of Tenant"), Landlord may, in addition to and not in derogation of any remedies for any preceding breach of covenant, acting through its employees, agents or servants, immediately or at any time thereafter, terminate this Lease by notice to Tenant in the manner provided in Section 10.1, and shall have the immediate right to re-enter and repossess the Premises, whereupon on the date specified in such notice, the Term of this Lease and all of Tenant's rights and privileges under this Lease shall expire and terminate but Tenant shall remain liable as hereinafter provided.

8.2 Remedies. In the event Landlord shall elect to re-enter pursuant to Section 8.1, or in the event Landlord shall take possession of the Premises pursuant to legal proceedings or pursuant to any notice provided by law, and should Landlord elect to terminate this Lease, Landlord may recover from Tenant:

(a) the worth at the time of the award of the unpaid Rent and other charges payable hereunder which are due, owing and unpaid by Tenant to Landlord at the time of termination; and

(b) the worth at the time of the award of the amount by which (i) the unpaid Rent and other charges payable hereunder which would have been earned after termination until the time of the award exceeds (ii) the amount of such rental loss for such period that Tenant proves could have been reasonably avoided; and

(c) the worth at the time of the award of the amount by which (i) the unpaid al Rent and other charges payable hereunder for the balance of the Term of this Lease after the time of such award exceeds (ii) the amount of such rental loss for such period that Tenant proves could be reasonably avoided; and

(d) all other amounts necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of events are likely to result therefrom, including, without limitation, all costs (including reasonable attorneys' fees, costs and disbursements) of recovering possession of the Premises, removing persons or property from the Premises, repairs, brokers' fees, advertising and alterations to the Premises in connection with reletting the Premises; and

(e) at Landlord's election, other amounts in addition to or in lieu of the above as may be permitted from time to time by applicable law.

All computations of the worth at the time of amounts recoverable by Landlord under clauses (a), (b), and (d) shall be computed by allowing interest at the Default Rate. The worth at the time of award recoverable by Landlord under clause (c) above shall be computed by discounting the amount otherwise recoverable by Landlord at the discount rate of the Federal Reserve Bank of San Francisco plus one percent (1%).

If the Premises or any part of the Premises are vacated or abandoned, or if Landlord takes possession of the Premises pursuant to legal proceedings or pursuant to any notice provided by applicable law, and if Landlord does not elect to terminate this Lease, Landlord shall have the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has the right to sublet or assign, subject only to reasonable limitations). Accordingly, if Landlord does not elect to terminate this Lease on account of any default by Tenant, Landlord may, from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease, including the right to recover all Rent and other charges payable hereunder as the same becomes due. Landlord shall also have the right to make such alterations, repairs and decorations in the Premises as Landlord in its reasonable judgment considers advisable and necessary for the purpose of reletting the Premises; and the making of such alterations, repairs and decorations shall not operate or be construed to release Tenant from liability hereunder as aforesaid. Landlord shall apply to any unpaid amounts due Landlord hereunder the net proceeds, if any, of any reletting of the Premises, after deducting all reasonable expenses in connection therewith, including, without limitation, all repossession costs, brokerage commissions, legal expenses, attorneys' fees, costs and disbursements, advertising, expenses of employees, alteration costs and expenses of preparing the Premises for such reletting. Tenant hereby waives all right to receive all or any portion of the net proceeds of any such reletting. Landlord shall in no event be liable in any way whatsoever for failure to relet the Premises, or, in the event that the Premises are relet, for failure to collect the rent under such reletting. If Landlord is required by applicable laws to mitigate its damages under this Lease: (i) Landlord shall be required only to use reasonable efforts to mitigate, which shall not exceed such efforts as Landlord generally uses to lease other comparable space in the San Jose market area; (ii) Landlord will not be deemed to have failed to mitigate if Landlord leases any other properties or portions thereof in the San Jose market area before reletting all or any portion of the Premises; (iii) Landlord shall not be obligated to lease the Premises to a replacement tenant

who does not, in Landlord's good faith opinion, have sufficient financial resources to operate the Premises in a first-class manner and to fulfill all of the obligations in connection with the lease as and when the same become due; and (iv) any failure to mitigate as required herein with respect to any period of time shall only reduce the Rent and other amounts to which Landlord is entitled hereunder.

In the event that Tenant should breach this Lease, Landlord may, at its option, enforce all of its rights and remedies under this Lease, including the right to recover the Rent and other charges payable hereunder as it becomes due hereunder. Additionally, Landlord shall be entitled to recover from Tenant all reasonable costs of maintenance and preservation of the Premises (to the extent of Tenant's repair and maintenance obligations under this Lease), and all costs, including attorneys' fees, costs and disbursement, to protect the Premises and Landlord's interest under this Lease.

At any time after a Default of Tenant occurs, Landlord may re-enter the Premises and remove all persons and property from the Premises; such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant. No re-entry into the Premises by Landlord pursuant to this paragraph shall be construed as an election to terminate this Lease unless a written notice of such intention is given to Tenant.

To the fullest extent permitted by law, Tenant hereby expressly waives any and all rights of redemption or relief from forfeiture under California Civil Procedure Sections 1174 and 1179, or any other present or future laws in the event of Tenant being evicted or dispossessed, or in the event of Landlord obtaining possession of the Premises, by reason of the violation by Tenant of any of the covenants and conditions of this Lease.

Nothing contained in this Lease shall limit or prejudice the right of Landlord to prove for and obtain in proceedings for bankruptcy or insolvency by reason of the termination of this Lease, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, the damages are to be proved, whether or not the amount be greater than, equal to, or less than the amount of the loss or damages referred to above.

Notwithstanding anything set forth in this Lease to the contrary, Tenant shall not be liable to Landlord for any punitive damages or for any loss of business or any other indirect, special or consequential damages suffered by Landlord from whatever cause, other than those consequential damages incurred by Landlord in connection with a holdover of the Premises by Tenant after the expiration or earlier termination of this Lease in accordance with the terms of Section 8.5 below, or incurred by Landlord in connection with any repair, physical construction or improvement work performed by Landlord as a result of a Default of Tenant under this Lease. It is hereby acknowledged and agreed that the terms of this paragraph shall not apply to any damage recoverable by Landlord under California Civil Code Section 1951.2 and Landlord's right to continue the lease in effect and recover Rent as it becomes due pursuant to California Civil Code Section 1951.4.

8.3 Remedies Cumulative. Except as expressly provided otherwise in Section 8.2, any and all rights and remedies which Landlord may have under this Lease, and at law and equity (including without limitation actions at law for direct, indirect, special and consequential (foreseeable and unforeseeable) damages), for Tenant's failure to comply with its obligations

under this Lease shall be cumulative and shall not be deemed inconsistent with each other, and any two or more of all such rights and remedies may be exercised at the same time insofar as permitted by law.

8.4 Landlord's Right to Cure Defaults. If Tenant commits an Event of Default, Landlord shall have the right, but shall not be required, to pay such sums or do any act which requires the expenditure of monies which may be necessary or appropriate by reason of such Event of Default, and in the event of the exercise of such right by Landlord, Tenant agrees to pay to Landlord forthwith within thirty (30) days after written demand (which shall include reasonable documentation evidencing the costs incurred by Landlord), as Additional Rent, all such sums including reasonable attorneys' fees, costs and disbursements, together with interest thereon at a rate (the "Default Rate") equal to the lesser of twelve percent (12%) or the maximum rate allowed by law.

8.5 Holding Over. Any holding over by Tenant after the expiration or early termination of the Term of this Lease shall be treated as a daily tenancy at sufferance at a rental rate equal to one and one-half (1.5) times the sum of the Annual Fixed Rent in effect immediately prior to the expiration or earlier termination of the Term, plus Additional Rent and other charges herein provided (prorated on a daily basis). Tenant shall also pay to Landlord all damages, direct and/or consequential (foreseeable and unforeseeable), sustained by reason of any such holding over. Otherwise, all of the covenants, agreements and obligations of Tenant applicable during the Term of this Lease shall apply and be performed by Tenant during such period of holding over as if such period were part of the Term of this Lease.

8.6 Effect of Waivers of Default. Any consent or permission by Landlord to any act or omission by Tenant shall not be deemed to be consent or permission by Landlord to any other similar or dissimilar act or omission and any such consent or permission in one instance shall not be deemed to be consent or permission in any other instance.

8.7 No Waiver, Etc. The failure of Landlord or Tenant to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Lease shall not be deemed a waiver of such violation nor prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. The receipt by Landlord of rent with knowledge of the breach of any covenant of this Lease shall not be deemed to have been a waiver of such breach by Landlord, or by Tenant, unless such waiver is in writing signed by the party to be charged. No consent or waiver, express or implied, by Landlord or Tenant to or of any breach of any agreement or duty shall be construed as a waiver or consent to or of any other breach of the same or any other agreement or duty.

8.8 No Accord and Satisfaction. No acceptance by Landlord of a lesser sum than the Annual Fixed Rent, Additional Rent or any other charge then due shall be deemed to be other than on account of the earliest installment of such rent or charge due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent or other charge be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or pursue any other remedy in this Lease provided.

ARTICLE 9
Rights of Mortgagees or Ground Lessor

This Lease, and all rights of Tenant hereunder, are and shall be subject and subordinate to any ground or master lease, and to any and all mortgages, which may now or hereafter affect the Building or the Property and/or any such lease. This Section shall be self-operative and no further instrument of subordination shall be required. In confirmation of such subordination, Tenant shall promptly execute, acknowledge and deliver any instrument that Landlord, the lessor under any such lease or the holder of any such mortgage or any of their respective successors in interest may reasonably request to evidence such subordination. Any lease to which this Lease is subject and subordinate is herein called "Superior Lease" and the lessor of a Superior Lease or its successor in interest, at the time referred to, is herein called "Superior Lessor". Any mortgage to which this Lease is subject and subordinate is herein called "Superior Mortgage" and the holder of a Superior Mortgage is herein called "Superior Mortgagee". Notwithstanding the foregoing to the contrary, any Superior Lessor or Superior Mortgagee may, at its option, subordinate the Superior Lease or Superior Mortgage of which it is the lessor or holder to this Lease by giving Tenant ten (10) days' prior written notice of such election, whereupon this Lease shall, irrespective of dates of execution, delivery and recording, be superior to such Superior Lease or Superior Mortgage and no other documentation shall be necessary to effect such change.

Landlord represents that the Property is not subject to any Superior Lease or Superior Mortgage as of the Date of this Lease. Landlord shall use commercially reasonable efforts to obtain a so-called non-disturbance agreement ("SNDA") from any future Superior Mortgagee in the form customarily used by such Superior Mortgagee, but Landlord shall have no obligation to incur any expense or liability in connection with such request (or to become involved in any request by Tenant for changes to the form of SNDA) and, if such Superior Mortgagee shall fail or refuse to provide or to execute such SNDA (or to consider or agree to any changes to the form of SNDA requested by Tenant), such failure or refusal shall not constitute a default or breach of this Lease by Landlord. If any future Superior Mortgagee shall agree to provide an SNDA, then at Landlord's request, Tenant shall first execute and deliver such SNDA to Landlord.

If any Superior Lessor or Superior Mortgagee or the nominee or designee of any Superior Lessor or Superior Mortgagee shall succeed to the rights of Landlord under this Lease, whether through possession or foreclosure action or delivery of a new lease or deed, or otherwise (except pursuant to the last sentence of the preceding paragraph), then at the request of such party so succeeding to Landlord's rights (herein called "Successor Landlord") and upon such Successor Landlord's written agreement to accept Tenant's attornment, Tenant shall attorn to and recognize such Successor Landlord as Tenant's landlord under this Lease and shall promptly execute and deliver any instrument that such Successor Landlord may reasonably request to evidence such attornment. Upon such attornment, this Lease shall continue in full force and effect as a direct lease between the Successor Landlord and Tenant upon all of the terms, conditions and covenants as are set forth in this Lease, except that the Successor Landlord (unless formerly the landlord under this Lease) shall not be (a) liable in any way to Tenant for any act or omission, neglect or default on the part of Landlord under this Lease, (b) responsible for any monies owing by or on deposit with Landlord to the credit of Tenant, (c) subject to any counterclaim or setoff which theretofore accrued to Tenant against Landlord, (d) bound by any modification of this Lease subsequent to such Superior Lease or Superior Mortgage, or by any previous prepayment of

Annual Fixed Rent or Additional Rent for more than one (1) month, which was not approved in writing by the Successor Landlord, (e) liable to Tenant beyond the Successor Landlord's interest in the Property, (f) responsible for the performance of any work to be done by Landlord under this Lease to render the Premises ready for occupancy by Tenant, or (g) required to remove any person occupying the Premises or any part thereof, except if such person claims by, through or under the Successor Landlord. Tenant agrees at any time and from time to time to execute a suitable instrument in confirmation of Tenant's agreement to attorn, as aforesaid.

ARTICLE 10

Miscellaneous Provisions

10.1 Notices. Except as may be expressly provided herein otherwise, all notices, requests, demands, consents, approval or other communications to or upon the respective parties hereto shall be in writing, shall be (i) delivered by hand, (ii) mailed by certified or registered mail, return receipt requested, (iii) sent by a nationally recognized courier service that provides a receipt for delivery such as Federal Express, United Parcel Service or U.S. Postal Service Express Mail, or (iv) delivered by electronic mail ("E-mail") to each of the addresses for each party provided in this Lease or provided in a written notice to the other party, provided that such notice by E-mail is promptly followed by a written notice sent by one of the methods identified in items (i), (ii) or (iii) above (and provided that such notice delivered by E-mail is followed by a written notice as set forth above, then such notice delivered by E-mail shall be deemed made as given on receipt, as verified by written or automated receipt, or by electronic log (as applicable)). For notices served personally or by courier, service shall be conclusively deemed made at the time of such personal service or refusal to accept service. Any notice given by mail shall conclusively be deemed delivered three (3) Business Days after the deposit thereof in the United States mail addressed to the party to whom such notice is to be given at the address set forth herein and shall be addressed as follows: if intended for Landlord, to the Original Address of Landlord set forth in Section 1.1 of this Lease with a copy to SIR Properties Trust, c/o The RMR Group LLC, Two Newton Place, 255 Washington Street, Suite 300, Newton, MA 02458, Attention: Jennifer B. Clark, E-mail: [***] and to SIR Properties Trust, c/o The RMR Group LLC, 8631 West Third Street, Suite 301E, Los Angeles, CA 90048, Attention: Vice President, West Region, E-mail: [***] (or to such other address or addresses as may from time to time hereafter be designated by Landlord by notice to Tenant); and if intended for Tenant, addressed to Tenant at the Original Address of Tenant set forth in Section 1.1 of this Lease (or to such other address or addresses as may from time to time hereafter be designated by Tenant by notice to Landlord). Notices shall be effective on the date delivered to (or the first date such delivery is attempted and refused by) the party to which such notice is required or permitted to be given or made under this Lease. Notices from either party may be given by such party's agent, if any, or such party's attorney. Any bills or invoices for Annual Fixed Rent or Additional Rent may be given by mail (which need not be registered or certified) and, if so given, shall be deemed given on the third Business Day (as defined in Section 10.8 below) following the date of posting.

10.2 Quiet Enjoyment. Landlord agrees that upon Tenant's paying the rent and performing and observing the agreements, conditions and other provisions on its part to be performed and observed, Tenant shall and may peaceably and quietly have, hold and enjoy the Premises during the Term hereof without any manner of hindrance or molestation from Landlord or anyone claiming under Landlord, subject, however, to the terms of this Lease.

10.3 Waiver of Jury Trial. LANDLORD AND TENANT HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THEM AGAINST THE OTHER IN CONNECTION WITH THIS LEASE.

10.4 Lease not to be Recorded; Confidentiality of Lease Terms. Tenant agrees that it will not record this Lease. Both parties shall, upon the request of either (and at the expense of the requesting party), execute and deliver a notice or short form of this Lease in such form, if any, as may be acceptable for recording with the land records of the governmental entity responsible for keeping such records for the City of San Jose. In no event shall such document set forth the rent or other charges payable by Tenant pursuant to this Lease; and any such document shall expressly state that it is executed pursuant to the provisions contained in this Lease and is not intended to vary the terms and conditions of this Lease.

Tenant shall not make or permit to be made any press release or other similar public statement regarding this Lease without the prior approval of Landlord, which approval shall not be unreasonably withheld; provided, however, that the foregoing shall not apply to nor otherwise limit Tenant's compliance with any disclosure requirements applicable to Tenant as a publicly-traded company in connection with this Lease, including, without limitation any requirement to disclose and provide a copy of this Lease in connection with Tenant's 8-K disclosure obligations.

10.5 Limitation of Landlord's Liability. The term "Landlord", so far as covenants or obligations to be performed by Landlord are concerned, shall be limited to mean and include only the owner or owners at the time in question of Landlord's interest in the Property, and in the event of any transfer or transfers of such title to said property, Landlord (and in case of any subsequent transfers or conveyances, the then grantor) shall be concurrently freed and relieved from and after the date of such transfer or conveyance, without any further instrument or agreement, of all liability with respect to the performance of any covenants or obligations on the part of Landlord contained in this Lease thereafter to be performed, it being intended hereby that the covenants and obligations contained in this Lease on the part of Landlord, shall, subject as aforesaid, be binding on Landlord, its successors and assigns, only during and in respect of their respective period of ownership of such interest in the Property. Notwithstanding the foregoing, in no event shall the acquisition of Landlord's interest in the Property by a purchaser which, simultaneously therewith, leases Landlord's entire interest in the Property back to Landlord, be treated as an assumption by operation of law or otherwise, of Landlord's obligations hereunder. Tenant shall look solely to such seller-lessee, and its successors from time to time in title, for performance of Landlord's obligations hereunder. The seller-lessee, and its successors in title, shall be Landlord hereunder unless and until such purchaser expressly assumes in writing Landlord's obligations hereunder.

Tenant shall not assert nor seek to enforce any claim for breach of this Lease against any of Landlord's assets other than Landlord's interest in the Property (and the rents, issues, profits and other proceeds derived in connection therewith), and Tenant agrees to look solely to such interest for the satisfaction of any liability or claim against Landlord under this Lease, it being specifically agreed that in no event whatsoever shall Landlord ever be personally liable for any such liability. In addition, Landlord hereby notifies Tenant that the Declaration of Trust of Landlord provides, and Tenant agrees, that no trustee, officer, director, general or limited partner, member, shareholder, beneficiary, employee or agent of Landlord (including any person or entity from time to time engaged to supervise and/or manage the operation of Landlord) shall be held to

any liability, jointly or severally, for any debt, claim, demand, judgment, decree, liability or obligation of any kind (in tort, contract or otherwise) of, against or with respect to Landlord or arising out of any action taken or omitted for or on behalf of Landlord.

10.6 Landlord's Default.

10.6.1 General. Landlord shall not be deemed to be in breach of, or in default in the performance of, any of its obligations under this Lease unless it shall fail to perform such obligation(s) and such failure shall continue for a period of thirty (30) days after written notice has been given by Tenant to Landlord specifying the nature of Landlord's alleged breach or default, or such additional time as is reasonably required to correct any such breach or default so long as Landlord commences to cure within such thirty (30) day period and thereafter diligently pursues such cure to completion. Landlord's failure to perform any of its obligations hereunder shall not be deemed an eviction of Tenant (constructive or actual), and Tenant shall have no right to terminate this Lease for any breach or default by Landlord hereunder and no right, for any such breach or default, to offset or counterclaim against any rent due hereunder except as expressly set forth in this Lease. In no event shall Landlord ever be liable to Tenant for any punitive damages or for any loss of business or any other indirect, special or consequential damages suffered by Tenant from whatever cause.

10.6.2 Landlord's Failure to Make Repairs; Tenant's Cure Right. If Landlord fails to make any repairs or replacements that are Landlord's responsibility under this Lease or otherwise perform any work that is Landlord's responsibility under this Lease (collectively, for purposes of this Section 10.6.2, "repair" or "repairs") within the time periods set forth in Section 10.6.1, and such failure to repair continues for three (3) Business Days after Landlord's receipt of a second notice of the need for repairs from Tenant, and specifying that Tenant intends to perform such repairs unless Landlord responds to such notice, then Tenant may perform such repairs, subject to the further terms and conditions of this Section 10.6.2. In the event Tenant takes such repair action, Tenant shall use only those contractors used by Landlord in the Building for work unless such contractors are unwilling or unable to perform, or timely perform, such work, in which event Tenant may utilize the services of any other qualified contractor which normally and regularly performs similar work in other comparable buildings in the vicinity of the Property. Promptly following completion of any work undertaken by Tenant pursuant to the terms and conditions of this Section 10.6.2, Tenant shall deliver a detailed invoice of the work completed, the materials used and the costs relating thereto. Landlord shall reimburse Tenant for the costs set forth in such invoice within thirty (30) days after receipt of such invoice. If, however, Landlord delivers to Tenant, within thirty (30) days after receipt of Tenant's invoice, a written objection to the payment of such invoice, setting forth with reasonable particularity Landlord's reasons for its claim that such action did not have to be taken by Landlord pursuant to the terms and conditions of this Lease or that the charges are excessive, in which case Landlord shall pay the amount it contends would not have been excessive. If Tenant disagrees with Landlord's determination, then Landlord and Tenant shall attempt to agree upon the amount to be reimbursed to Tenant using reasonable good-faith efforts. If Landlord and Tenant fail to reach agreement within thirty (30) days thereafter, then either party may proceed to institute legal proceedings against the other (subject to the other terms and conditions of this Lease).

10.7 Brokerage. Cushman & Wakefield of California, Inc., licensed real estate broker, represents Landlord in connection with this Lease, and Cornish & Carey Commercial, a California corporation dba Newmark Knight Frank, licensed real estate broker, represents Tenant in connection with this Lease (collectively, the "Brokers"). Landlord shall pay the Brokers a fee in accordance with the terms set forth in a separate agreement(s) between Landlord and the Brokers (the "Broker Agreements") for brokerage services rendered by the Brokers in connection with the execution of this Lease. Tenant represents and warrants to Landlord that it has dealt with no broker or finder in connection with the consummation of this Lease other than the Brokers. In the event of any other brokerage claims, finder's fees or similar claims or liens against Landlord or the Property (including the Premises) predicated upon or arising out of prior dealings with Tenant, Tenant agrees to defend the same and indemnify and hold Landlord harmless against any such claim, and to discharge any such lien. Landlord represents and warrants to Tenant that it has dealt with no broker or finder in connection with the consummation of this Lease other than the Brokers. Landlord agrees to indemnify, defend and hold Tenant harmless from and against any brokerage claims finder's fees or similar claims (including claims by the Brokers based on the Broker Agreements, but excluding any other claims by the Brokers) or otherwise predicated upon or arising out of prior dealings with Landlord. The indemnification obligations set forth in this Section 10.7 shall survive the expiration or earlier termination of this Lease.

10.8 Applicable Law and Construction. This Lease shall be governed by and construed in accordance with the laws of the State of California and if any provisions of this Lease shall to any extent be invalid, the remainder of this Lease shall not be affected thereby. Tenant expressly acknowledges and agrees that Landlord has not made and is not making, and Tenant, in executing and delivering this Lease, is not relying upon, any warranties, representations, promises or statements, except to the extent that the same are expressly set forth in this Lease or in any other written agreement which may be made between the parties concurrently with the execution and delivery of this Lease and which shall expressly refer to this Lease. All understandings and agreements heretofore made between the parties are merged in this Lease and any other such written agreement(s) made concurrently herewith, which alone fully and completely express the agreement of the parties and which are entered into after full investigation, neither party relying upon any statement or representation not embodied in this Lease or any other such written agreement(s) made concurrently herewith. This Lease may be amended, and the provisions hereof may be waived or modified, only by instruments in writing executed by Landlord and Tenant. The titles of the several Articles and Sections contained herein are for convenience only and shall not be considered in construing this Lease. The submission of this document for examination and negotiation does not constitute an offer to lease, or a reservation of, or option for, the Premises, and Tenant shall have no right to the Premises hereunder until the execution and delivery hereof by both Landlord and Tenant. Except as herein otherwise provided, the terms hereof shall be binding upon and shall inure to the benefit of the successors and assigns, respectively, of Landlord and Tenant and, if Tenant shall be an individual, upon and to his heirs, executors, administrators, successors and assigns. If two or more persons or parties are named as Tenant herein, (a) each of such persons or parties shall be jointly and severally liable for the obligations of Tenant hereunder, and Landlord may proceed against anyone without first having commenced proceedings against any other of them, and (b) any notices, requests, demands, consents, approvals or other communications delivered by Tenant under this Lease which are not executed by each person or party named as Tenant herein may be deemed void, if Landlord shall so elect. Each term and each provision of this Lease to be performed by Tenant shall be construed to be both an independent

covenant and a condition, and time is of the essence with respect to the exercise of any rights and the performance of any obligations under this Lease. The reference contained to successors and assigns of Tenant is not intended to constitute a consent to assignment by Tenant. Except as otherwise set forth in this Lease, any obligations of Tenant set forth in this Lease (including, without limitation, rental and other monetary obligations, repair and maintenance obligations and obligations to indemnify Landlord), shall survive the expiration or earlier termination of this Lease. This Lease may be signed in counterpart and/or by electronic signature. The term "Business Day" as used herein means any day or days other than Saturdays, Sundays and days on which Federal or California state-chartered banks are closed for business. Notwithstanding anything herein to the contrary, whenever under the terms and provisions of this Lease the time for performance falls on a day other than a Business Day, such time for performance shall be extended to the next Business Day.

10.9 Attorney's Fees. In the event that either Landlord or Tenant should bring suit for the possession of the Premises, for the recovery of any sum due under this Lease, or because of the breach of any provision of this Lease or for any other relief against the other, then all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party therein shall be paid by the other party, which obligation on the part of the other party shall be deemed to have accrued on the date of the commencement of such action and shall be enforceable whether or not the action is prosecuted to judgment. The term, "Prevailing Party" shall include, without limitation, a party who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment or abandonment by the other party of its claim or defense.

10.10 Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, acts of terrorism, fire or other casualty, epidemics and pandemics or other viral exposures, spread or outbreaks or preventive measures to control the same (including, but not limited to, delays, closures and inability to conduct business due to applicable laws, requirements, orders, decrees, advisories, guidance or recommendations and/or adherence of the same to quarantine, work-from-home, shelter-in-place, stay-at-home, isolate, distance, and other similar measures from the Center for Disease Control and Prevention, World Health Organization or other applicable local, regional, municipal, State, Federal and global regulatory bodies) and other causes (financial inability excepted) beyond the reasonable control of the party obligated to perform (each, a "Force Majeure Event"), shall excuse the performance by that party for a period equal to the prevention, delay or stoppage, except the obligations imposed with regards to payment of Rent and any other sums or charges to be paid by Tenant pursuant to this Lease.

10.11 California Specific Provisions.

10.11.1 Tenant hereby acknowledges and agrees that on or before the day hereof it has received from Landlord the disclosures required pursuant Section 25402.10 of the California Public Resources Code.

10.11.2 Landlord hereby acknowledges that, as of the date hereof, the Premises has not been inspected by a Certified Access Specialist (CASp). Tenant hereby acknowledges and understands that Landlord has made the foregoing statement in satisfaction of its disclosure obligations under Section 1938 of the California Civil Code. A CASp can inspect the Premises and determine whether the Premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the Premises, the commercial property owner or Landlord may not prohibit the Tenant from obtaining a CASp inspection of the Premises for the occupancy or potential occupancy of the Tenant, if requested by the Tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises. In furtherance of the foregoing, Landlord and Tenant hereby agree as follows: (i) any CASp inspection requested by Tenant shall be conducted, at Tenant's sole cost and expense, by a CASp designated by Landlord, subject to Landlord's reasonable rules and requirements; (ii) Tenant, at its sole cost and expense, shall be responsible for making any improvements or repairs within the Premises to correct violations of construction-related accessibility standards; and (iii) if anything done by or for Tenant in its use or occupancy of the Premises shall require any improvements or repairs to the Building or Property (outside the Premises) to correct violations of construction-related accessibility standards, then Tenant shall reimburse Landlord upon demand, as additional Rent, for the cost to Landlord of performing such improvements or repairs.

10.12 Authorization. Each individual executing this Lease on behalf of Tenant has the requisite right, power, legal capacity and authority to execute and enter into this Lease on behalf of Tenant, to legally bind Tenant to the terms and provisions of this Lease and to perform each and all of Tenant's obligations under this Lease.

10.13 Rooftop Rights. So long as Tenant continues to Lease one hundred percent (100%) of the Premises, then in accordance with, and subject to, the terms and conditions set forth in this Lease (including, without limitation, Section 6.2.5 and Exhibit D), and this Section 10.11, Tenant may install, access, maintain and use on the roof of the Building, at Tenant's sole cost and expense, but without the payment of any additional Rent or a license or similar fee or charge, (i) satellite dishes/antennas for receiving of signals or broadcasts (as opposed to the generation or transmission of any such signals or broadcasts) servicing the business conducted by Tenant from within the Premises (plus reasonable equipment and cabling related thereto) (all such equipment is defined collectively as the "Telecommunications Equipment"), and (ii) HVAC equipment (i.e., which HVAC equipment is in addition to the HVAC units to be provided, repaired and/or replaced by Landlord pursuant to Sections 3.2.1.2, 3.3 and 6.1.3) to the extent the same is required to be installed on the exterior of the Building in connection with any supplemental HVAC system that Tenant installs in the Premises in accordance with the terms set forth in this Lease (the "HVAC Equipment") (collectively, the "Rooftop Equipment").

10.13.1 Condition of Roof. Except as otherwise set forth in this Lease and subject to Landlord's obligation to install the New Roof on the Building and repair and maintain such roof as provided for above in this Lease, Landlord makes no representations or warranties whatsoever with respect to the condition of the roof of the Building, or the fitness or suitability of the roof of the Building for the installation, maintenance and operation of the Rooftop Equipment,

including, without limitation, with respect to the quality and clarity of any receptions and transmissions to or from the Telecommunications Equipment and the presence of any interference with such signals whether emanating from the Building or otherwise. Landlord agrees to use commercially reasonable efforts to enforce any warranty for the New Roof.

10.13.2 Plans and Specifications. In the event Tenant elects to exercise its right to install any Rooftop Equipment, then Tenant shall give Landlord prior notice thereof. Such Rooftop Equipment shall be installed pursuant to plans and specifications approved by Landlord (specifically including, without limitation, all mounting and waterproofing details), which approval will not be unreasonably withheld, conditioned, or delayed. In addition, the physical appearance and the size of the Rooftop Equipment shall be subject to Landlord's reasonable approval, the location of any such installation of the Rooftop Equipment shall be designated by Tenant subject to Landlord's reasonable approval and Landlord may require Tenant to install screening around such Rooftop Equipment, at Tenant's sole cost and expense, as reasonably designated by Landlord. Notwithstanding any such review or approval by Landlord, Tenant shall remain solely liable for any damage to any portion of the roof or roof membrane, specifically including any penetrations, in connection with Tenant's installation, use, maintenance and/or repair of such Rooftop Equipment, and Landlord shall have no liability therewith. In connection with Tenant's installation, use, maintenance and/or repair of such Rooftop Equipment, Tenant shall take no action (or fail to take appropriate action) that would void or otherwise materially affect the warranty on the New Roof, and Landlord shall have the right to require that a representative of Landlord be present at any time Tenant is performing any work on the New Roof. Such Rooftop Equipment shall, in all instances, comply with applicable governmental laws, codes, rules and regulations.

10.13.3 Maintenance and Removal. Tenant shall maintain such Rooftop Equipment, at Tenant's sole cost and expense. Tenant shall remove such Rooftop Equipment upon the date that Tenant no longer occupies one hundred percent (100%) of the Premises, and in any event, Tenant shall remove such Rooftop Equipment upon the expiration or earlier termination of this Lease and repair any damage to the roof caused by such removal.

10.13.4 Tenant's Obligations. For the purposes of determining Tenant's obligations under this Lease with respect to its use of the Rooftop Equipment all of the provisions of this Lease shall apply to the installation, use and maintenance of the Rooftop Equipment, including, without limitation, the provisions relating to insurance, indemnity, repairs and maintenance, and compliance with laws.

10.13.5 No Right to Transfer. Tenant shall not be entitled to assign, sublease, license or otherwise transfer all or any portion of its right to use the Telecommunications Equipment (other than in connection with an assignment of this Lease under the terms of Section 6.2.1 above).

(Signature Page Follows)

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

LANDLORD:

SIR PROPERTIES TRUST

By: The RMR Group LLC,
its managing agent

By: /s/ Jennifer F. Francis
Jennifer F. Francis
Executive Vice President

TENANT:

ARCHER AVIATION INC.,
a Delaware corporation

By: /s/ Brett Adcock
Name: Brett Adcock
Its: Co-CEO

Exhibit A

Plan Showing the Premises

Exhibit A-1

Legal Description of Property

Exhibit B

Declaration by Landlord and Tenant as to Commencement Date

Exhibit C

Rules and Regulations

Exhibit D

Alterations Requirements

Exhibit E

Contractor's Insurance Requirements

Exhibit F
Site Plan Improvements

Exhibit G
Demolition Plan

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER PURSUANT TO RULE 13a-14(a) OR 15d-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934, AS ADOPTED
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Adam Goldstein, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the period ended March 31, 2022, of Archer Aviation Inc. (the “registrant”);
 2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
 3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
 4. The registrant’s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant’s internal control over financial reporting that occurred during the registrant’s most recent fiscal quarter (the registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant’s internal control over financial reporting; and
 5. The registrant’s other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.
-

Date: May 12, 2022

/s/ Adam Goldstein

Adam Goldstein
Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER PURSUANT TO RULE 13a-14(a) OR 15d-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934, AS ADOPTED
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Mark Mesler, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the period ended March 31, 2022, of Archer Aviation Inc. (the “registrant”);
 2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
 3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
 4. The registrant’s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant’s internal control over financial reporting that occurred during the registrant’s most recent fiscal quarter (the registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant’s internal control over financial reporting; and
 5. The registrant’s other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.
-

Date: May 12, 2022

/s/ Mark Mesler

Mark Mesler
Chief Financial Officer
(Principal Financial Officer)

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10-Q of Archer Aviation Inc. (the "Company") for the quarterly period ended March 31, 2022, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Adam Goldstein, Chief Executive Officer of the Company, do hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

1. the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"); and
2. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 12, 2022

/s/ Adam Goldstein

Adam Goldstein

Chief Executive Officer

(Principal Executive Officer)

This certification accompanies the Report to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended, or the Exchange Act (whether made before or after the date of the Report), irrespective of any general incorporation language contained in such filing.

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10-Q of Archer Aviation Inc. (the "Company") for the quarterly period ended March 31, 2022, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Mark Mesler, Chief Financial Officer of the Company, do hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

1. the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"); and
2. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 12, 2022

/s/ Mark Mesler

Mark Mesler

Chief Financial Officer

(Principal Financial Officer)

This certification accompanies the Report to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended, or the Exchange Act (whether made before or after the date of the Report), irrespective of any general incorporation language contained in such filing.