When recorded return to:
Robert Erven Brown, p.a.
4801 E. Greenway Rd., Ste. 200
Scottsdale, AZ 85254-1685

SEVENTH AMENDMENT TO GROUND LEASE

This "Amendment" is legally binding between the parties described below as of September 16, 1997 (the "Effective Date").

BACKGROUND

The Ground Lease

A. The City of Cottonwood, formerly known as the Town of Cottonwood, an Arizona municipality, is the "Landlord" under a "Ground Lease Agreement" dated May 5, 1983. The City entered into the Ground Lease to encourage economic development of the Cottonwood Airport industrial property to further economic development within the City of Cottonwood.

B. Cottonwood Airpark L.C. is the successor in interest to Cottonwood Airpark I, L.C. as successor in interest to Cottonwood Airpark, Inc., which was originally named as "Tenant" under the Ground Lease Agreement.

C. The Ground Lease Agreement was amended by the First Amendment dated November 30, 1983, the Second Amendment dated March 12, 1985, the Third Amendment dated August 21, 1985, the Fourth Amendment dated February 7, 1989, and the proposed Fifth Amendment dated January 1, 1993 which was never signed, the Sixth Amendment dated July 5, 1994 and this Seventh Amendment. The Ground Lease Agreement and all Amendments are collectively referred to as the **"Ground Lease."**

D. A memorandum of the Ground Lease dated May 23, 1983 was recorded January 4, 1984 in Book 1597, pages 576-581 and thereafter corrected by an instrument recorded July 1, 1985 in Book 1734, pages 11-15 of the records of the Yavapai County Recorder (the "Memorandum of Ground Lease").

The GSI Ground Lease

E. Pursuant to certain option rights granted to it by Cottonwood Airpark, Inc., "FMWS" Development Company subleased Lots 105 and 106 from Cottonwood Airpark, Inc. FMWS as Landlord executed a (sub)(sub) ground lease dated January 5, 1985 for Lots 105 and 106 of the Cottonwood Airpark Tract One with General Semiconductor Industries, Inc. ("GSI"), a Delaware corporation as the (sub) (sub) tenant; this lease was amended by a letter between the parties dated March 8, 1985 which constituted the first (and only) amendment" to it. This (sub) (sub) ground lease, as amended, is referred to as the **"GSI Ground Lease."** A memorandum of the GSI Ground Lease is recorded at instrument 26740 on August 9, 1985 in the Office of the Yavapai County Recorder in Book 1744, page 944. Lots 105 and 106 are

defined in the subdivision plat of Cottonwood Airpark as recorded in Book 25 of Maps, page 19, Yavapai County Recorder.

F. Square D Company ("Square D"), a Delaware corporation (formerly known as HAB Industries, Inc., a Delaware corporation), is the successor in interest to GSI as the "Tenant" in the GSI Ground Lease.

G. Cottonwood Airpark L.C. is the successor in interest to FMWS as the "Landlord" in the GSI Ground Lease.

H. Pursuant to rights granted to it under the GSI Ground Lease, Square D constructed certain "Improvements" consisting of a building or buildings and other miscellaneous improvements. Square D now wishes to sell and transfer all of its rights in the Improvements to Robert G. Flynn and Carol J. Flynn, husband and wife (the "Flynns"). Square D further wishes to terminate and end all of its rights, obligations, duties and responsibilities under the GSI Ground Lease with Cottonwood Airpark L.C.

I. As part of this transaction The Flynns are seeking an assignment and transfer of all of the rights possessed by Cottonwood Airpark L.C. under its Ground Lease with the City of Cottonwood to Lots 105 and 106 simultaneously with the termination of the GSI Ground Lease and simultaneously with the acquisition of fee title to the Improvements owned by Square D. The Flynns will then directly lease those lots from the City.

J. The Ground Lease requires the written consent of the City of Cottonwood to the assignment by Cottonwood Airpark L.C. of its rights as Tenant to the Flynns under the Ground Lease. By reopening the closed Square D facility the Flynns will create new jobs in the community. It appears that the best interests of the City will be served by permitting the Flynns to move their business to the Cottonwood Airpark, thus the City of Cottonwood granted its consent to this transaction.

K. The parties agree that both the passage of time and certain aspects of the Square D - Flynn transaction require modifications be made to the Ground Lease. Thus, the parties entered into this Seventh Amendment.

AGREEMENT

Now, therefore, for valuable consideration received, the parties agree that:

1. Incorporation by Reference. The facts, circumstances, descriptions and definitions contained in the Background section of this Amendment are hereby incorporated by reference as an integral part of this Amendment. If there is a conflict or inconsistency between the provisions of this Seventh Amendment and any prior Amendment or a conflict between the provisions of this Seventh Amendment and any provision of the Ground Lease, then the provisions of this Seventh Amendment shall prevail and control. All of the other terms and conditions contained in the Ground Lease (as amended by the prior Amendments) remain in full force and effect, except as modified by this Seventh Amendment.

2. Amendment to Lease.

2.1 The provisions of Section 12 regarding assignment are stricken and this new language is inserted in its place to be legally binding as of the Effective Date:

Tenant may assign its interest in this Lease in its entirety only upon receipt of written approval from Landlord, which approval shall not be withheld unreasonably. Upon receipt of written approval by Landlord's City Manager

(or by any other person authorized in writing to act by the City Council), Tenant may assign less than all of its interest in this Lease from time-to-time without the necessity of obtaining City Council approval. Landlord shall act on a request for approval within 30 days and agrees that approval shall not be withheld unreasonably. Any permitted assignment (whether in whole or in part) shall be subject to, and governed by, the terms of this Lease, including Exhibit 5. Upon assignment by Tenant of all or part of its interest in the Lease, Tenant shall be relieved of all responsibility arising after the effective date of the assignment regarding the portion of the leased premises thus assigned.

2.2 <u>The provisions of Section 13 are stricken and this new language is inserted in its place to be legally binding as of the Effective Date:</u>

Without the necessity of obtaining Landlord's prior written consent, Tenant may, from time-to-time, sublet all or any part of the Premises, the Improvements, or both and may assign, encumber, extend or renew any sublease from time-to-time without Landlord's consent.

3. <u>Amendment Regarding Lots 105 and 106.</u> Landlord and Tenant acknowledge and agree that all of Tenant's rights regarding Lots 105 and 106 have been assigned by Tenant to Robert G. Flynn and Carol J. Flynn ("Flynns"). Landlord agrees to look solely to the Flynns for collection of all rent for Lots 105 and 106 after the Effective Date of this Amendment.

3.1 The rent for Lots 105 and 106 is agreed to be $ 1,051.42 per year with the first payment from the Flynns to be due on October 1, 1997.

3.2 The property taxes for Lots 105 and 106, if any, shall be separately assessed and paid by the Flynns.

3.3 The failure of the Flynns to pay rent, to pay property taxes or to otherwise fully comply with the terms of the Ground Lease shall be considered a default by Flynns only as to Lots 105 and 106 and shall not be considered as a default by Tenant under the Lease as affecting any other rights of Tenant or any other property leased by Tenant. Landlord agrees to exercise its remedies for a default by Flynns as provided under this Lease solely against Lots 105 and 106.

3.4 Conversely, in the event of a default by Tenant under this Ground Lease, Landlord will exercise its rights solely against Tenant and will not construe a default by Tenant as a default against the Flynns under Lots 105 and 106. So long as the Flynns pay their rent and timely perform all other obligations as required under Lots 105 and 106, then a default by Tenant regarding other obligations under the Lease shall not be construed as a default by the Flynns.

3.5 The obligation of Tenant to perform certain development work does not apply to the Flynns. The parties acknowledge that Lots 105 and 106 are exempt from any further development requirement.

3.6 The City acknowledges that the Flynns own the improvements which are located on Lots 105 and 106 and that these improvements are subject to an encumbrance in favor of County Bank. Landlord agrees to provide notice to County Bank in the event of a default by the Flynns under the Ground Lease pertaining to Lots 105 and 106 pursuant to separate documents to be submitted by County Bank to Landlord.

4. <u>Insurance.</u> The Flynns agree to independently comply with the insurance provisions of Section 14 (e) of the Ground Lease.

5. **Correction of Notice Address.** Pursuant to Section 20 of the Lease, the new address for Tenant is:

Cottonwood Airpark L.C.
% William B. Fulkerson
1530 West Indian School Rd.
Phoenix Arizona 85015-5231

and

Cottonwood Airpark L.C.
% Jack Seitz
839 West Mingus Avenue
Cottonwood, AZ 86326

With copy to:

Robert Erven Brown, p.a.
4535 East Hearn Road
Phoenix, AZ 85032

If to Landlord:

The City Manager
The City of Cottonwood
827 North Main Street
Cottonwood, AZ 86326

With copy to:

Mangum Wall Stoops & Warden PLLC
Attention: Melinda L. Garrahan, Esq
PO Box 10
Flagstaff AZ 86002-0010

6. **Ratification.** The terms and conditions contained in the Ground Lease are hereby ratified, confirmed and continue in full force and effect. The Term Commencement Date of December 31, 1983 began a 25 year Term as to certain portions of the Lease and a 50 year Term as to certain other portions. The Lease also granted options for renewal. The parties intend to ratify and affirm the length of the Term and of the option rights to the maximum extent allowed at law or in equity. There are no amendments, modifications, supplements or other agreements or understandings except for those contained in the Ground Lease. Landlord acknowledges that Tenant has paid all rent, fully performed all of its obligations and is in good standing under the Ground Lease.

7. **No Representation.** The undersigned Robert G. Flynn and Carol J. Flynn hereby acknowledge and affirm that they have received no legal advice of any kind or nature from the law firm of Robert Erven Brown, p.a. or by Mangum Wall Stoops & Warden PLLC. The Flynns are hereby advised to seek their own independent legal counsel regarding all questions concerning this document and all other aspects of this transaction. The Flynns acknowledge that Mr. Brown has functioned solely on behalf of Cottonwood Airpark L.C. and has not provided them with any legal or tax advice, reviewed any document, or performed any other act on their behalf.

This Seventh Amendment is legally binding as of the Effective Date regardless of the actual date of signing.

COTTONWOOD AIRPARK L.C., an Arizona limited liability company by its Majority Member

MFW, L.L.P., an Arizona limited liability partnership (formerly known as FMW Development Company)

By _____

FLYNNS:

_____
ROBERT ~~John~~ **G. Flynn, husband of Carol J. Flynn**

_____
Carol J. Flynn, wife of ROBERT ~~John~~ **G. Flynn**

I, the undersigned Secretary of the City of Council of the City of Cottonwood hereby personally affirm and certify that this Seventh Amendment has been duly considered and full compliance with all legal requires for approval by the City Council and do further affirm and certify that this Seventh Amendment has been approved, ratified and accepted by the City Council on behalf of the City of Cottonwood.

THE CITY OF COTTONWOOD

By _____
City Manager

By _____
City Clerk

Date: _____

Approved as to form and content:

MAGNUM, WALLS, STOOPS & WARDEN
City attorneys for the City of Cottonwood

By _____

STATE OF ARIZONA)
) ss.
County of _____)

Before me, the undersigned Notary Public, on this ____ day of _____, 1997, personally appeared _____, the City Manager of the City of Cottonwood, who is personally known to me to be (or satisfactorily proved himself/herself to be) the person who executed the foregoing Consent, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

_____
Notary Public

My Commission Expires:

_____

This Seventh Amendment is legally binding as of the Effective Date regardless of the actual date of signing.

COTTONWOOD AIRPARK L.C., an Arizona limited liability company by its Majority Manager

MFW, L.L.P., an Arizona limited liability partnership (formerly known as FMW Development Company)

By _____

FLYNNS:

_____
ROBERT **John G. Flynn, husband of Carol J. Flynn**

_____
Carol J. Flynn, wife of John G. Flynn
ROBERT

I, the undersigned Secretary of the City of Council of the City of Cottonwood hereby personally affirm and certify that this Seventh Amendment has been duly considered and full compliance with all legal requires for approval by the City Council and do further affirm and certify that this Seventh Amendment has been approved, ratified and accepted by the City Council on behalf of the City of Cottonwood.

THE CITY OF COTTONWOOD

By _____
City Manager

By _____
City Clerk

Date: 9.17.97

Approved as to form and content:

MAGNUM, WALLS, STOOPS & WARDEN
City attorneys for the City of Cottonwood

By _____

STATE OF ARIZONA)
) ss.
County of Yavapai)

Before me, the undersigned Notary Public, on this 17th day of September, 1997, personally appeared Brian Michelsen, the City Manager of the City of Cottonwood, who is personally known to me to be (or satisfactorily proved himself/herself to be) the person who executed the foregoing Consent, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

_____
Notary Public

My Commission Expires:
October 22, 1997

This Seventh Amendment is legally binding as of the Effective Date regardless of the actual date of signing.

COTTONWOOD AIRPARK L.C., an Arizona limited liability company by its Majority Member

MFW, L.L.P., an Arizona limited liability partnership (formerly known as FMW Development Company)

By _____

FLYNNS:

_____

~~John~~ ROBERT G. Flynn, husband ~~of~~ Carol J. Flynn

_____

Carol J. Flynn, wife ~~of~~ ~~John~~ ROBERT G. Flynn

I, the undersigned Secretary of the City of Council of the City of Cottonwood hereby personally affirm and certify that this Seventh Amendment has been duly considered and full compliance with all legal requires for approval by the City Council and do further affirm and certify that this Seventh Amendment has been approved, ratified and accepted by the City Council on behalf of the City of Cottonwood.

THE CITY OF COTTONWOOD

By _____
City Manager

By _____
City Clerk

Date: _____

Approved as to form and content:

MAGNUM, WALLS, STOOPS & WARDEN
City attorneys for the City of Cottonwood

By _____

STATE OF ARIZONA)
) ss.
County of _____)

Before me, the undersigned Notary Public, on this ____ day of _____, 1997, personally appeared _____, the City Manager of the City of Cottonwood, who is personally known to me to be (or satisfactorily proved himself/herself to be) the person who executed the foregoing Consent, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

_____
Notary Public

My Commission Expires:

_____

STATE OF ARIZONA)
) ss.
County of Yavapai)

Before me, the undersigned Notary Public, on this 18th day of September, 1997, personally appeared Marianne Jimenez, the City Clerk of the City of Cottonwood, who is personally known to me to be (or satisfactorily proved himself/herself to be) the person who executed the foregoing Consent, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

Sue Schoonmaker
Notary Public

My Commission Expires:
October 22, 1997

STATE OF ARIZONA)
) ss.
County of _____)

Before me, the undersigned Notary Public, on this ____ day of _____, 1997, personally appeared _____, an authorized signatory of Cottonwood Airpark LC, who is personally known to me to be (or satisfactorily proved himself/herself to be) the person who executed the foregoing, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

_____
Notary Public

My Commission Expires:

_____

STATE OF ARIZONA)
) ss.
County of _____)

Before me, the undersigned Notary Public, on this ____ day of _____, 1997, personally appeared _____, an authorized signatory of Cottonwood Airpark LC, who is personally known to me to be (or satisfactorily proved himself/herself to be) the person who executed the foregoing, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

_____
Notary Public

My Commission Expires:

_____

STATE OF ARIZONA)
) ss.

STATE OF ARIZONA)
) ss.
County of _____)

Before me, the undersigned Notary Public, on this ____ day of _____, 1997, personally appeared _____, the City Clerk of the City of Cottonwood, who is personally known to me to be (or satisfactorily proved himself/herself to be) the person who executed the foregoing Consent, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

_____
Notary Public

My Commission Expires:

_____

STATE OF ARIZONA)
) ss.
County of Maricopa)

Before me, the undersigned Notary Public, on this 17 day of September, 1997, personally appeared William B Fulkerson, an authorized signatory of Cottonwood Airpark LC, who is personally known to me to be (or satisfactorily proved himself/herself to be) the person who executed the foregoing, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

Tracy Altemus
Notary Public

My Commission Expires:

NOTARY PUBLIC
STATE OF ARIZONA
MARICOPA COUNTY
TRACY ALTEMUS
My Commission Expires January 14, 2000

_____

STATE OF ARIZONA)
) ss.
County of _____)

Before me, the undersigned Notary Public, on this ____ day of _____, 1997, personally appeared _____, an authorized signatory of Cottonwood Airpark LC, who is personally known to me to be (or satisfactorily proved himself/herself to be) the person who executed the foregoing, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

_____
Notary Public

My Commission Expires:

_____

STATE OF ~~ARIZONA~~)
FLORIDA) ss.
County of ORANGE)

Before me, the undersigned Notary Public, on this 18th day of September, 1997, personally appeared Robert K. Flynn, who is personally known to me to be (or satisfactorily proved himself/herself to be) the person who executed the foregoing, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

I.D. U.K. Passport
OATH yes

Patricia A. Moore
Notary Public - PATRICIA A. MOORE

My Commission Expires:

November 6, 1998

PATRICIA A. MOORE
MY COMMISSION # CC407905 EXPIRES
November 6, 1998
BONDED THRU TROY FAIN INSURANCE, INC

STATE OF ~~ARIZONA~~)
FLORIDA) ss.
County of ORANGE)

Before me, the undersigned Notary Public, on this 18th day of September, 1997, personally appeared Carol J. Flynn, who is personally known to me to be (or satisfactorily proved himself/herself to be) the person who executed the foregoing, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

I.D. Arizona Driver License
OATH yes

Patricia A. Moore
Notary Public - PATRICIA A. MOORE

My Commission Expires:

November 6, 1998

PATRICIA A. MOORE
MY COMMISSION # CC407905 EXPIRES
November 6, 1998
BONDED THRU TROY FAIN INSURANCE, INC

STATE OF ARIZONA)
) ss.
County of _____)

Before me, the undersigned Notary Public, on this ____ day of _____, 1997, personally appeared _____ of Magnum, Walls, Stoops & Warden, attorneys for the City of Cottonwood, who is personally known to me (or satisfactorily proved himself/herself) to be the person who executed the foregoing Consent, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

_____
Notary Public

My Commission Expires:

_____

STATE OF ARIZONA)
) ss.
County of_____)

Before me, the undersigned Notary Public, on this ____ day of _____, 1997, personally appeared Robert F. Flynn, who is personally known to me to be (or satisfactorily proved himself/herself to be) the person who executed the foregoing, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

_____
Notary Public

My Commission Expires:

_____

STATE OF ARIZONA)
) ss.
County of _____)

Before me, the undersigned Notary Public, on this ____ day of _____, 1997, personally appeared Carol J. Flynn, who is personally known to me to be (or satisfactorily proved himself/herself to be) the person who executed the foregoing, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

_____
Notary Public

My Commission Expires:

_____

STATE OF ARIZONA)
) ss.
County of Coconino)

Before me, the undersigned Notary Public, on this 17th day of September 1997, personally appeared Melinda Farrahan of Magnum, Walls, Stoops & Warden, attorneys for the City of Cottonwood, who is personally known to me (or satisfactorily proved himself/herself) to be the person who executed the foregoing Consent, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

Ellen Augenstein
Notary Public

My Commission Expires:

OFFICIAL SEAL
ELLEN L. AUGENSTEIN
Notary Public - State of Arizona
COCONINO COUNTY
My Comm. Expires Aug. 24, 2000