

OFFICE LEASE

between

OPERA PLAZA, L.P.
as Landlord,

and

CITY AND COUNTY OF SAN FRANCISCO,
as Tenant,

For the lease of
601 Van Ness Avenue, Suite P
San Francisco, California 94102

April 11, 2016

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OFFICE LEASE

THIS OFFICE LEASE (this "**Lease**"), dated for reference purposes only as of April 11th, 2016, is by and between OPERA PLAZA, L.P., a California limited partnership ("**Landlord**"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**" or "**Tenant**") (Landlord and City are sometimes referred to individually in this Lease as a "**Party**," and collectively as the "**Parties**").

Landlord and City hereby agree as follows:

1. BASIC LEASE INFORMATION

The following is a summary of basic lease information (the "**Basic Lease Information**"). Each item below shall be deemed to incorporate all of the terms in this Lease pertaining to such item. In the event of any conflict between the information in this Section and any more specific provision of this Lease, the more specific provision shall control.

Lease Reference Date:	April 11, 2016
Landlord:	OPERA PLAZA, L.P.
Tenant:	CITY AND COUNTY OF SAN FRANCISCO
Building (<u>Section 2.1</u>):	601 Van Ness Avenue, San Francisco, CA 94102
Premises (<u>Section 2.1</u>):	Suite P
Rentable Area of Premises (<u>Section 2.1</u>):	Approximately 8,646 rentable square feet.
Initial Term (<u>Section 3</u>):	Estimated commencement date: May 1, 2016, subject to <u>Section 3.1</u> below. Expiration date: The last day of the calendar month in which occurs the fifth (5 th) anniversary of the Commencement Date; provided that if the Commencement Date is the first day of a calendar month, then the Initial Term shall expire on the last day of the sixtieth (60 th) full calendar month of the Term.
Extension Option (<u>Section 3.4</u>):	One (1) additional term of five (5) years, exercisable by City by notice to Landlord given within the time frames specified in Section 3.4 below.
Base Rent (<u>Section 4.1</u>):	Annual Base Rent: \$363,132 (\$42.00 per sq. ft.) (subject to fifty percent (50%) abatement of monthly installments of Base Rent otherwise due during second and third calendar months of Initial Term). Monthly payments: \$30,261 (\$3.50 per sq. ft.)

Rent Abatement (Section 4.1(b))

With respect to second and third calendar months of Initial Term only, monthly installments of Base Rent due shall be reduced fifty percent (50%) from \$30,261 to \$15,230.50.

Adjustment Dates (Section 4.2):

The anniversary of the Commencement Date in each calendar year falling within the Initial Term,

and

The commencement date of the Extended Term and each anniversary thereof falling within the Extended Term.

Base Rent Adjustment (Section 4.2):

One Dollar (\$1.00) per square foot per annum above Base Rent square foot rate in effect prior to the applicable Adjustment Date. The adjusted Base Rent for the twelve (12)-month period beginning on the first Adjustment Date during the Initial Term will be determined based on Base Rent square-foot rate in effect during the first twelve (12)-month period of the Initial Term without reduction for the Base Rent abatement to occur during the second and third months of the Initial Term. The adjusted Base Rent for the twelve (12)-month period beginning on the first Adjustment Date during the Extended Term will be determined based on Base Rent square-foot rate in effect during the first twelve (12)-month period of the Extended Term.

Base Year (Section 4.4):

Initial Term Base Year: 2016

Extension Term Base Year: 2020

City's Percentage Share (Section 4.4):

8.27%

Use (Section 5.1):

General Office

Utilities (Article 9):

Landlord will provide water and gas service at Landlord's cost; City will provide electricity service at City's cost.

Services (Section 9.3):

Landlord will provide janitorial service to the Premises and property management at the Building; Landlord will provide security for the Building, but not within, or specifically for, the Premises.

Notice Address of Landlord (Section 22.1):

Opera Plaza, L.P.
601 Van Ness Avenue, Suite #2058
San Francisco, CA 94102

Phone No.: (415) 474-2882
Fax No.: (415) 929-6716

Key Contact for Landlord:

Kathleen Callahan

Landlord Contact Telephone No.:

(415) 474-2882

Notice Address for Tenant (Section 22.1):

Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Attn: John Updike,
Director of Property
Re: 601 Van Ness Avenue
Fax No.: (415) 552-9216

with a copy to:

Human Services Agency
1650 Mission Street, 5th Floor
San Francisco, California 94103
Attn: Dave Curto

and to:

Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Attn: Richard Handel
Deputy City Attorney
Re: 601 Van Ness Avenue
Fax No.: (415) 554-4755

Tenant Contact Telephone No.:

415-557-5581

Alternate Contact for Tenant:

Josh Keene

Alternate Contact Telephone No.:

415-554-9859

Brokers (Section 22.8):

Kidder Mathews

2. PREMISES

2.1 Lease Premises

Landlord leases to City, and City leases from Landlord, subject to the provisions of this Lease, those premises in the building identified in the Basic Lease Information (the "Building") and shown on the floor plan(s) attached as Exhibit A (the "Premises"). The Premises contain the rentable area and are located on the floor(s) of the Building specified in the Basic Lease Information. As used in this Lease, the term "rentable area" shall mean that measurement of interior floor area computed in accordance with the "Office Buildings: Standard Methods of Measurements" (ANSI/BOMA Z65.1-2010) "METHOD B," adopted by the Building Owners and Managers Association (BOMA). The Building, the land upon which the Building is located, and all other improvements on or appurtenances to such land are referred to collectively as the "Property." For all purposes under this Lease, the parking facility shall not be considered a part of the Property.

2.2 Common Areas

City shall have the non-exclusive right to use for their intended purposes the lobbies, corridors, elevators, stairways, plaza, loading dock, and other public areas of the Building and the Property (collectively, the "**Common Areas**"). City shall have the exclusive right of access to and from the Premises by the main, side, and loading dock entrances to the Premises; provided, however, such access rights shall not negate Landlord's rights of access set forth in Article 18 of this Lease.

2.3 Disability Access

California Civil Code Section 1938 requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("**CASp**") to determine whether the property meets all applicable construction-related accessibility requirements.

City is hereby advised that the Premises have not been inspected by a CASp.

2.4 Parking

None provided.

3. TERM

3.1 Term of Lease

The Premises are leased for an initial term (the "**Initial Term**") commencing on the date specified in the Basic Lease Information as the estimated commencement date (the "**Estimated Commencement Date**") or such other date (with City's written acceptance) as Landlord shall have delivered the Premises to City, and City's Mayor and Board of Supervisors shall have approved the transaction contemplated by this Lease, at their respective sole and absolute discretion, as further provided in this Lease. City shall have seventy (70) days from receipt of the Lease executed by Landlord to approve the Lease, and if such approval is not received by Landlord within such seventy (70)-day period, Landlord may terminate this Lease upon written notice to Tenant but such right to terminate shall expire if City approves this Lease prior to its receipt of any such termination notice from Landlord. The Initial Term of this Lease shall end on the expiration date specified in the Basic Lease Information, or such earlier date on which this Lease terminates pursuant to the provisions of this Lease, provided that City shall have the right to extend the Initial Term pursuant to Section 3.4 (Extension Option) below. The word "**Term**"

as used in this Lease shall refer to the Initial Term and any Extended Terms if City exercises the Extension Option as provided below.

3.2 Commencement Date and Expiration Date

The dates on which the Term commences and terminates pursuant hereto are referred to respectively as the "**Commencement Date**" and the "**Expiration Date**." If the Commencement Date occurs on a date other than the Estimated Commencement Date, then promptly thereafter Landlord shall deliver to City a notice substantially in the form of the attached **Exhibit B**, confirming the actual Commencement Date, but Landlord's failure to do so shall not affect the commencement of the Term. Tenant shall acknowledge said notice and return a fully executed copy thereof to Landlord within thirty (30) days after receipt of such notice from Landlord, but the failure to do so in a timely manner shall not be considered as an event of default under this Lease.

3.3 Delay in Delivery of Possession

Landlord shall use its best efforts to deliver possession of the Premises in compliance with all applicable Laws (defined in Section 10.1 (Premises Condition and Landlord's Compliance With Laws; Indemnity) below) and in good working order as accepted by City's Director of Property on or before the Estimated Commencement Date. If Landlord is unable to deliver possession of the Premises as provided above, however, then, subject to the provisions of this Section below, the validity of this Lease shall not be affected by such inability to deliver possession except that City's obligations to pay Base Rent or any other charges shall not commence until such time as Landlord has delivered the Premises as required under this Lease. If the Term commences later or earlier than the Estimated Commencement Date, this Lease shall nevertheless expire on the Expiration Date, unless sooner terminated pursuant to the provisions under this Lease. If Landlord is unable to deliver possession of the Premises to City as required hereunder within ninety (90) days after the Estimated Commencement Date, then, at its option, City may terminate this Lease by notice to Landlord without any further liability under this Lease.

3.4 Extension Option

City shall have the right to extend the Initial Term of this Lease (the "**Extension Option**") for the additional term specified in the Basic Lease Information (the "**Extended Term**"). Such Extension Option shall be on all of the terms and conditions contained in this Lease. City may exercise the Extension Option, if at all, by giving written notice to Landlord ("**Extension Notice**") no earlier than four hundred twenty-five (425) days prior to the then existing Expiration Date; provided, however, if City is in material default under this Lease on the date of giving such notice (the "**Extension Notice Date**"), and fails to cure such default as provided in this Lease, Landlord may reject such exercise by delivering written notice of such rejection to City promptly after such failure to cure. Landlord acknowledges and agrees that City's notice of its intent to exercise the Extension Option shall be subject to (a) the Parties' agreement upon the Base Rent for the Extended Term (whether by agreement of the Parties or pursuant to the Base Rent determination process set forth in Section 3.5 [Base Rent in Extended Term]) and (b) enactment of a resolution or ordinance by the Board of Supervisors and the Mayor, at their respective sole and absolute discretion, approving and authorizing the same, both no later than the date (the "**Outside Approval Date**") that is two hundred seventy (270) days before the then existing Expiration Date. Unless the Outside Approval Date is extended by agreement of the Parties, City's failure to so approve and authorize the exercise of the Extension Option on or before the Outside Approval Date shall be deemed a revocation of the exercise of the Extension Option, and the Lease shall expire on the Expiration Date.

3.5 Base Rent in the Extended Term

At the commencement of the Extended Term, the Base Rent shall be adjusted to equal the prevailing market rate for space of comparable size and location to the Premises then being offered for rent in other buildings similar in age, location and quality to the Premises situated within the Van Ness Corridor area of San Francisco ("**Reference Area**"). As used in this Lease, the term "**prevailing market rate**" shall mean the base rental for such comparable space, taking into account (a) any additional rental and all other payments and escalations payable under this Lease, (b) floor location and size of the premises covered by leases of such comparable space, (c) the duration of the Extended Term and the term of such comparable leases, (d) free rent given under such comparable leases for renewal periods and any other tenant concessions customarily offered during renewal periods, and (e) building standard tenant improvement allowances and other allowances given under such comparable leases during renewal periods.

The Extension Notice shall contain Tenant's determination of the prevailing market rate for the Premises. If Landlord does not accept Tenant's determination of the prevailing market rate for the Premises, then within ten (10) days following Landlord's receipt of the Extension Notice, Landlord shall notify City of Landlord's determination of the prevailing market rate for the Premises. Failure to timely notify City of Landlord's separate determination of the prevailing market rate for the Premises shall be deemed acceptance of Tenant's determination set forth in the Extension Notice. If Landlord notifies Tenant of Landlord's determination of the prevailing market rate for the Premises in accordance with the procedure stated above, City shall be deemed to have accepted Landlord's determination of the prevailing market rate for the Premises unless City notifies Landlord, within ten (10) days following Tenant's receipt of Landlord's determination of prevailing market rate for the Premises, that City disputes such determination, whereupon such dispute shall be resolved as follows:

(i) During the ten (10) days following Landlord's receipt from City of notice that City is disputing Landlord's notice of the prevailing market rate, Landlord and City shall attempt in good faith to meet no less than two (2) times, at a mutually agreeable time and place, to attempt to resolve any such disagreement.

(ii) If within such ten (10)-day period described in clause (i) above Landlord and City cannot reach agreement as to the prevailing market rate, within five (5) days after the expiration of such ten (10)-day period, they shall each select one appraiser to determine the prevailing market rate. Each such appraiser shall arrive at a determination of the prevailing market rate and submit his or her conclusions to Landlord and City within twenty (20) days of the expiration of the five (5)-day selection period described in this Subsection (ii).

(iii) If only one appraisal is submitted within the requisite twenty (20)-day period referred to in Subsection (ii) above, it shall be deemed to be the prevailing market rate. If both appraisals are submitted within such twenty (20)-day period, and if the two appraisals so submitted differ by less than ten percent (10%) of the higher of the two, then the average of the two shall be the prevailing market rate. If the two appraisals differ by more than ten percent (10%) of the higher of the two, then within five (5) days of the expiration of such twenty (20)-day period, the two appraisers shall immediately select a third appraiser who will make a determination of the prevailing market rate within twenty (20) days of his or her selection and submit such determination to Landlord and City. This third appraisal will then be averaged with the closer of the two previous appraisals and the result shall be the prevailing market rate.

(iv) All appraisers specified in this Section shall be "MAI" designated members of the Appraisal Institute with not less than five (5) years' experience appraising leases of commercial properties similar to the Premises in the Van Ness Corridor area of the City and County of San Francisco. Landlord and City shall pay the cost of the appraiser respectively

selected by such Party, and each Party shall pay one-half of the cost of the third appraiser plus one-half of any other costs incurred in the arbitration.

4. RENT

4.1 Base Rent

(a) Beginning on the Commencement Date, City shall pay to Landlord during the Term the annual Base Rent specified in the Basic Lease Information (the "**Base Rent**"). The Base Rent shall be payable in equal consecutive monthly payments on or before the first day of each month, in advance, at the address specified for Landlord in the Basic Lease Information, or such other place as Landlord may designate in writing upon not less than thirty (30) days' advance notice. City shall pay the Base Rent without any prior demand and without any deductions or setoff except as otherwise provided in this Lease. If the Commencement Date occurs on a day other than the first day of a calendar month or the Expiration Date occurs on a day other than the last day of a calendar month, then the monthly payment of the Base Rent for such fractional month shall be prorated based on a thirty (30)-day month.

(b) With respect to the second and third calendar months of the Initial Term only, the monthly installments of Base Rent due with respect to such months shall be reduced fifty percent (50%) from the Base Rent otherwise due during the first twelve (12)-month period of the Term.

4.2 Adjustments in Base Rent

On each date specified in the Basic Lease Information for the adjustment of Base Rent (an "**Adjustment Date**"), the Base Rent payable under Section 4.1(a) (Base Rent) shall be adjusted so that the Base Rent square-foot rate for the twelve (12)-month period commencing on such Adjustment Date shall be increased by \$1.00 per square foot per year above the Base Rent charged during twelve (12)-month period immediately preceding such Adjustment Date. The adjusted Base Rent for the twelve (12)-month period beginning on the first Adjustment Date will be determined based on Base Rent in effect during the first twelve (12)-month period of the Term without reduction for the Base Rent abatement to occur during the second and third months of the Initial Term pursuant to Section 4.1(b) (accordingly, the annual Base Rent of \$42.00 per square foot that will be in effect during the first year of the Term will be raised to \$43.00 per square foot on the first Adjustment Date).

4.3 Additional Charges

City shall pay to Landlord any charges or other amounts required under this Lease as additional rent ("**Additional Charges**"), including the charges for Real Estate Taxes and Operating Costs provided for in this Lease. All such Additional Charges shall be payable to Landlord at the place where the Base Rent is payable. Landlord shall have the same remedies for a default in the payment of any Additional Charges as for a default in the payment of Base Rent. The Base Rent and Additional Charges are sometimes collectively referred to below as "**Rent**."

4.4 Operating Costs; Definitions

For purposes of this Lease, the following terms shall have the meanings set forth below:

(a) "**Base Year**" means each of the years specified in the Basic Lease Information.

(b) "**City's Percentage Share**" means the percentage specified in the Basic Lease Information.

(c) **"Expense Year"** means each calendar year commencing January 1st of each year during the Term, including any partial year in which this Lease commences; provided that Landlord, upon advance written notice to City, may change the Expense Year to any other twelve (12) consecutive month period and, in the event of any such change, City's Percentage Share of Operating Costs shall be equitably adjusted for the Expense Years involved in any such change. The Base Year shall not be considered as an Expense Year and, accordingly, City shall have no liability for any Operating Costs with respect to the Base Year.

(d) **"Operating Costs"** means the total reasonable and prudent costs and expenses actually paid or incurred by Landlord in connection with the management, operation, maintenance, and repair (and replacement) of the Building, including, but not limited to: (i) the cost of air conditioning, steam, water, heating, mechanical, telephone, ventilating, escalator and elevator systems, and all other utilities except electricity provided to other premises occupied by other tenants if electric service to the Premises is separately metered and paid for by Tenant during the Term (if, for any reason, electric service to the Premises is not separately metered and paid for by Tenant during any period of the Term but, instead, paid for by Landlord, then the costs of electric service to the Building during such period shall constitute a cost to be included within Landlord's calculation of Operating Costs), (ii) the cost of repairs (including replacements) and all related labor and material costs, the cost of general maintenance, cleaning, and service contracts, and the cost of all supplies, tools, and equipment required in connection therewith, (iii) the cost incurred by Landlord for all insurance carried by Landlord with respect to the Property, and any deductible relating thereto, (iv) wages, salaries, payroll taxes, and other labor costs and employee benefits relating to employees of Landlord or its Agents (defined in Section 22.5 (Parties and Their Agents; Approvals) below to the extent engaged in the operation, repair, or maintenance of the Building, allocated in proportion to the percentage of such person's working time actually spent working in connection with the Building, (v) management fees equal to fifteen percent (15%) of all Operating Costs, (vi) fees, charges, and other costs of all independent contractors engaged by Landlord, allocated in proportion to the percentage of such person's working time actually spent working in connection with the Building, (vii) accounting and legal expenses to the extent attributable to the ownership, operation, or management of the Building, (viii) depreciation on personal property, including, without limitation, carpeting in public corridors and Common Areas and window coverings provided by Landlord, (ix) the fair market rental value of offices in the Building for the property manager, (x) the cost of capital improvements (together with interest at the actual interest rate incurred by Landlord in connection with such capital improvements) made to the Building after completion of its construction as a labor-saving or energy saving device or to effect other economies in the operation or maintenance of the Building and that benefit the Premises, or made to the Building after the date of this Lease that are required under any governmental law or regulation that was not applicable to the Building at the time that permits for the construction of such improvements were obtained, unless caused by Landlord's deliberate or negligent violation of such law, rule, or regulation, and except to the extent such improvements are attributable to or are made for the primary benefit of a tenant or occupant other than City, and (xi) any other expenses reasonably incurred in connection with the management, operation, maintenance, repair, and/or replacement of the Building (other than Real Estate Taxes and any services for which Landlord is separately and directly reimbursed by City or other tenants in the Building) that would, under generally accepted accounting principles, be considered an operating expense. The computation of Operating Costs shall be made in accordance with generally accepted accounting principles. With respect to the costs of items included in Operating Costs under (x) above, such costs shall be amortized over the useful life of such items, together with interest on the unamortized balance at a rate per annum equal to three (3) percentage points over the Treasury Rate charged at the time such item is constructed, but not more than the maximum rate permitted by law at the time such item is constructed.

In the event that in the Base Year for Operating Costs or in any Expense Year the Building is less than one hundred percent (100%) occupied, the Operating Costs shall be

appropriately adjusted to reflect a one hundred percent (100%) occupancy level. In no event shall Landlord recapture from Tenant more than one hundred percent (100%) of City's Percentage Share of the Operating Costs in any Expense Year.

Notwithstanding the foregoing, "Operating Costs" shall exclude the items described on the attached **Exhibit C**.

(e) "**Real Estate Taxes**" means all taxes, assessments, and charges levied upon or with respect to the portion of the Building owned by Landlord, or Landlord's interest in the Building. Real Estate Taxes shall include, without limitation, all general real property taxes and general and special assessments, charges, fees, or assessments for transit, housing, police, fire, or other governmental services, service payments in lieu of taxes that are now or hereafter levied or assessed against Landlord by the United States of America, the State of California, or any political subdivision of either, or any public corporation, district, or any other political or public entity, and shall also include any other tax, fee, or other excise, however described, that may be levied or assessed as a substitute for, or as an addition to, in whole or in part, any other Real Estate Taxes.

Notwithstanding the foregoing, Real Estate Taxes shall exclude (i) franchise, transfer, inheritance, gross receipts, or capital stock taxes or income taxes of Landlord from all sources unless, due to a change in the method of taxation, any of such taxes is levied or assessed against Landlord as a substitute for, or as an addition to, in whole or in part, any other tax that would otherwise constitute a Real Estate Tax, (ii) any penalties, fines, interest, or charges attributable to the late payment of any taxes, except to the extent attributable to City's failure to pay its portion of Real Estate Taxes under this Lease, (iii) any personal property taxes payable by City under this Lease or by any other tenant or occupant of the Building, or (iv) any increase in Real Estate Taxes resulting from any reassessment upon a transfer during the Initial Term of any of Landlord's interest in the Building or the real property on which the Building is located.

(f) "**Tax Year**" means each calendar year during the Term, including any partial year during which this Lease may commence; provided that Landlord, upon notice to City, may change the Tax Year from time to time to any other twelve (12)-consecutive month period and, in the event of any such change, City's Percentage Share of Real Estate Taxes shall be equitably adjusted for the Tax Year involved in any such change. No Tax Year shall include any Base Year.

4.5 Payment of Percentage Share of Operating Costs

During the entire Term, commencing after the end of the Base Year, City shall pay to Landlord each month, as Additional Charges, one twelfth (1/12) of City's Percentage Share of the amount, if any, by which Operating Costs for each Expense Year exceed the Operating Costs for the applicable Base Year, subject to the limitations described below. City shall make each such payment, in advance, in an amount estimated by Landlord in reasonable detail in a writing delivered to City. Landlord may revise such estimates of Operating Costs from time to time and City shall thereafter make payments on the basis of such revised estimates, provided that no such revisions shall be retroactive and Landlord may not make any such revisions more than twice in any given Expense Year and no such revision may be made any earlier than four (4) months subsequent to the prior estimate for such Expense Year. With reasonable promptness not to exceed ninety (90) days after the expiration of each Expense Year, Landlord shall furnish City with a statement ("**Landlord's Expense Statement**"), prepared by Landlord, setting forth in reasonable detail the Operating Costs for such Expense Year and City's Percentage Share thereof. If City's Percentage Share of the increase in actual Operating Costs for such Expense Year exceeds the estimated Operating Costs paid by City for such Expense Year, City shall pay to Landlord, within thirty (30) days after the receipt of Landlord's Expense Statement (whether or not this Lease has terminated), the difference between the amount of estimated Operating

Costs paid by City and City's Percentage Share of the actual increase in Operating Costs. If the total amount paid by City for any such Percentage Share of Operating Costs exceeds City's Operating Costs Share of the actual increase in Operating Costs for such Expense Year, such excess shall be credited against the next installments of Operating Costs due from City to Landlord under this Lease, or refunded to City, at City's option. Notwithstanding anything to the contrary contained in this Lease, in no event shall any annual increase in City's Percentage Share of Operating Costs for any Expense Year (whether during the Initial Term or during the Extended Term) exceed eight percent (8%) of the Operating Costs for the prior Expense Year, and the aggregate increase in City's Percentage Share of Operating Costs over the Initial Term shall not exceed thirty-two percent (32%) of the Operating Costs for the Base Year applicable to the Initial Term. Similarly, the aggregate increase in City's Percentage Share of Operating Costs over the Extended Term shall not exceed forty percent (40%) of the Operating Costs for the Base Year applicable to the Extended Term.

4.6 Payment of Percentage Share of Real Estate Taxes

(a) **Payment of Real Estate Taxes.** During the Term and, subject to the provisions of Section 4.6(b) and Section 4.6(c) below, commencing after the end of each Base Year, City shall pay to Landlord each month, as Additional Charges, one twelfth (1/12) of City's Percentage Share of the amount, if any, by which Real Estate Taxes for each Tax Year exceed Real Estate Taxes for the Base Year. City shall make such payments, in advance, in an amount estimated by Landlord in reasonable detail in a writing delivered to City. With reasonable promptness not to exceed thirty (30) days after Landlord has received the tax bills for any Tax Year, Landlord shall furnish City with a statement ("Landlord's Tax Statement") setting forth the amount of any increase in Real Estate Taxes for such Tax Year over the Real Estate Taxes for the Base Year and City's Percentage Share thereof. If City's Percentage Share of the increase in actual Real Estate Taxes for such Tax Year exceeds the estimated increases in Real Estate Taxes paid by City for such Tax Year, City shall pay to Landlord, within thirty (30) days after the receipt of Landlord's Tax Statement (whether or not this Lease has terminated), the difference between City's Percentage Share of the increase in actual Real Estate Taxes and the amount of Real Estate Taxes actually paid by City for the Tax Year in question. If the total amount of estimated Real Estate Taxes paid by City for such Tax Year exceeds City's Percentage Share of the increase in actual Real Estate Taxes for such Tax Year, such excess shall be credited against the next installments of Real Estate Taxes due from City under this Lease, or at City's option, such excess shall be refunded to City.

Notwithstanding anything to the contrary in the foregoing paragraph, the payment of City's Percentage Share of Real Property Taxes shall not include any assessments directly resulting from an increase in Real Estate Taxes based upon an increase in assessed value of the Building arising as a consequence of a sale or transfer of the Building during the Initial Term.

(b) **Notices of Listings, Offers, or Agreements to Transfer the Building.** At any time during the Term, Landlord may (i) determine to list, offer, advertise, or otherwise take any material action to seek a buyer to purchase all or any portion of the Building that includes the Premises (collectively, a "**Landlord Offer**"), (ii) receive any written offer to purchase all or any portion of the Building that includes the Premises (a "**Buyer's Offer**"), or (iii) enter into any letter of intent or written agreement concerning the sale by Landlord of all or any portion of the Building that includes the Premises (a "**Sales Contract**"). At any time during the Initial Term, but not earlier than four hundred thirty-five (435) days prior to the then existing Expiration Date, Tenant may deliver to Landlord a written request (a "**Notice Request**") that Tenant receive notice pursuant to this Section 4.6(b) of any Landlord Offer, Buyer's Offer, or Sales Contract that (A) has occurred and is still in effect, or (B) occurs after Landlord's receipt of the Notice Request.

(1) Prior to Notice Request. If any Landlord Offer, Buyer's Offer, or Sales Contract has occurred prior to Landlord's receipt of the Notice Request and is still in effect upon Landlord's receipt of the Notice Request, then, within ten (10) days after receipt of the Notice Request, Landlord shall give Tenant a written notice that states that, as the case may be:

(a) with respect to a Landlord Offer, such a Landlord Offer was made or occurred and the date such Landlord Offer first commenced; or

(b) with respect to a Buyer Offer, such a Buyer Offer was made or occurred and the date such Buyer Offer was first communicated to Landlord or its Agents; or

(c) with respect to a Sales Contract, such a Sales Contract exists and the date that the execution and delivery of such Sales Contract was executed by the parties to such Sales Contract.

(2) After Notice Request. If, after Landlord's receipt of a Notice Request given as provided above, but prior to City's approval of its exercise of the Extension Option as contemplated by Section 3.4 [Extension Option], Landlord:

(a) determines to make a Landlord Offer, then, at least ten (10) days prior to any such Landlord Offer, Landlord shall give City written notice of its intention to make a Landlord Offer; or

(b) receives any Buyer's Offer, or enters into a Sales Contract, then, within ten (10) days after Landlord's receipt of such Buyer's Offer or the full execution and delivery of a Sales Contract, as the case may be, Landlord shall give City written notice of Landlord's receipt of a Buyer's Offer or a fully executed Sales Contract, as the case may be.

Notices from Landlord under this Section 4.6(b) need not disclose the terms or provisions (financial or otherwise) of any Landlord Offer, Buyer's Offer, or Sales Contract or the identity of any prospective buyer of Landlord's interests in the Building. Landlord shall have no obligation to provide such notices after the occurrence of the Outside Approval Date.

(c) **Landlord's Failure to Provide Required Notice.** If Landlord fails to provide a notice as required by this Section 4.6(b), and the Landlord Offer, Buyer's Offer, or Sales Contract that was not so disclosed results in a Reassessment Increase (defined in Section 4.6(c) below) during the Extended Term, notwithstanding anything else in this Section 4.6, City shall have no obligation to pay City's Percentage Share of any such Reassessment Increase.

(d) **Suspension Period for Reassessment Increases during Extended Term.** Notwithstanding anything to the contrary in Section 4.6(a) above, if, during the Extended Term, there is any increase in Real Estate Taxes based upon an increase in assessed value of the Building resulting from a sale or transfer of the Building (a "**Reassessment Increase**"), City's payment of City's Percentage Share of such Reassessment Increase shall be

suspended during the period (the "**Suspension Period**") that is twenty-four (24) months immediately following the Reassessment Increase or the remaining balance of the Term, whichever is shorter. City's right to suspend its payment of City's Percentage Share of any Reassessment Increase pursuant to this Section may be exercised by City throughout the Extended Term each time there is a new Reassessment Increase. City shall pay Landlord the full amount of City's Percentage Share of a Reassessment Increase accumulated during any Suspension Period on or before the earlier to occur of (i) the date that is thirty (30) days after the expiration of such Suspension Period, or (ii) the Expiration Date. At least thirty (30) days prior to any such payment by City, Landlord shall provide City with a written statement that sets forth the amount so payable by City and the manner of calculation of such amount.

4.7 Proration

If the Expiration Date shall occur on a date other than the first or last day of a Tax Year or Expense Year, City's Percentage Share of Real Estate Taxes or Operating Costs for the Tax Year or Expense Year in which the Expiration Date occurs, shall be prorated based on a three hundred sixty-five (365)-day year.

4.8 Audits

City shall have the right, upon not less than twenty-one (21) calendar days' notice to Landlord, to have the books and records of the Building related to Operating Costs and Real Estate Taxes audited by a non-contingent fee auditor. If such audit discloses any discrepancies which would result in a reduction of City's Percentage Share of Operating Costs for any Expense Year, Landlord shall immediately refund to City the amount of any overpayment by City. City shall pay the cost of such audit, provided that if such audit discloses any discrepancies that result in a reduction of City's Percentage Share of Operating Costs of five percent (5%) or more for any Expense Year, then Landlord shall pay the costs of such audit, not to exceed two thousand dollars (\$2,000.00).

4.9 Records

Landlord shall maintain at the Building or at its offices in San Francisco in a safe, complete, and organized manner all of its records pertaining to this Lease and Real Estate Taxes, Operating Costs, and any other charges paid by City pursuant hereto, for a period of not less than three (3) years following expiration of the Term. Landlord shall maintain such records on a current basis and in accordance with generally accepted accounting principles. All such books and records shall be available for inspection, copying, and audit by City and its representatives, at City's expense, subject to the provisions of Section 4.8 (Audits) above. Subject to disclosures required by applicable Laws, all information attained in the course of any audit shall be kept confidential by Tenant.

4.10 Additional Services

From time to time, City may request that Landlord, at City's cost, perform Lease related services, improvements, or incur additional expenses not provided for in this Lease that City may require from time to time as requested by City's Real Estate Division and otherwise authorized to the extent required by City's Charter or other applicable Laws. If Landlord agrees to perform such services, City shall reimburse Landlord for such expenses, at rates agreed-upon in advance, and as they are incurred.

5. USE

5.1 Permitted Use

City may use the Premises for general office uses and such other uses as may be specified in the Basic Lease Information, and for no other use without Landlord's prior written consent, which shall not be unreasonably withheld or delayed so long as such use is not reasonably incompatible with a first-class office building in San Francisco and does not violate any previous agreement by Landlord with another Building tenant regarding such tenant's exclusive rights to use for a particular purpose a portion of the Building. Tenant acknowledges that Opera Plaza is a mixed-use development subject to the Master Association CC&Rs (the "CC&Rs"), and accepts this Lease subject thereto, and to any modifications and amendments, and to all matters disclosed thereby. Notwithstanding the foregoing, Landlord represents and covenants (a) that to Landlord's actual knowledge (without duty of inquiry), no existing provision of the CC&Rs conflicts in any material manner with the terms and conditions of this Lease, materially detracts from, or conflicts with, City's rights under this Lease, or materially increases City's obligations under this Lease, and (b) that at no time during the Term will any future provision of the CC&Rs conflict in any material manner with the terms and conditions of this Lease, materially detract from, or conflict with, City's rights under this Lease, or materially increase City's obligations under this Lease.

5.2 Observance of Rules and Regulations

City shall observe Landlord's reasonable rules and regulations for the Building subject to the provisions of this Lease (the "**Rules and Regulations**"). There are no Rules and Regulations currently in effect as of the Effective Date. Landlord may subsequently adopt Rules and Regulations and, thereafter make reasonable additions or modifications to the Rules and Regulations, which shall be binding upon City within a reasonable implementation period upon Landlord's delivery to City of a copy of any such adopted, amended, or modified Rules and Regulations, provided that any adopted, amended, or modified Rules and Regulations shall not reduce Landlord's obligations under this Lease nor interfere with City's business in the Premises, and such Rules and Regulations must be applicable to the other Building tenants, shall not conflict with the provisions of this Lease, shall not materially increase the burdens or obligations upon City, shall not impose a charge upon City for services that this Lease expressly states are to be provided to City at no charge, and shall not materially adversely affect the conduct of any business in the Premises that City is permitted to conduct pursuant to Section 5.1 (Permitted Use) above. Landlord shall administer the Rules and Regulations in a fair and nondiscriminatory manner and use reasonable efforts to cause other Building tenants to comply with them. City shall be entitled upon request to any waiver or special dispensation granted by Landlord to any other tenant in the Building with respect to the Rules and Regulations, and Landlord shall notify City of any such waiver or special dispensation.

5.3 Interference with Access

Landlord shall provide to City access to the Premises twenty-four (24) hours per day, seven (7) days per week, together with uninterrupted access to the Premises and the Common Areas to the maximum extent possible, including, without limitation, during any power outages affecting the Premises or any portion of the Building; provided, however, that Landlord may, after consultation with City's Administrator, interrupt City's access to the Premises or the Building in the event of an immediate threat of the Premises, the Common Areas, or any other portion of the Building being rendered unsafe for human occupancy. If City's use of, or access to, any of the Premises is interrupted as a result of the Premises, the Common Areas, or any other portion of the Building being rendered unsafe for human occupancy because of Landlord's failure to comply with its obligations under this Lease or for any other reason other than City's default under this Lease, then Landlord shall immediately undertake all necessary steps to correct

such condition. If any such condition results from Landlord's failure to comply with its obligations under this Lease and continues for two (2) business days or longer and impairs City's ability to carry on its business in the Premises, the Rent payable under this Lease shall be abated based on the extent to which such default interferes with City's ability to carry on its business at the Premises. If any such default by Landlord shall continue for thirty (30) days or more after City's use is interrupted and impairs City's ability to carry on its business in the Premises, then, without limiting any of City's other rights under this Lease, City may terminate this Lease unless Landlord supplies City with evidence reasonably satisfactory to City that City's normal and safe use will be restored within sixty (60) days of the date City's use was interrupted, and such use is actually restored within such 60-day period. Nothing in this Section shall limit City's rights with respect to any disruption due to casualty pursuant to Article 12 (Damage and Destruction) below.

6. DELIVERY OF PREMISES

6.1 Premises Delivery

On and or before the Commencement Date, Landlord shall ensure the Premises are in good working order and are in a clean and operating condition sufficient to allow for City's lawful occupancy as intended by and pursuant to this Lease.

6.2 Installation of Telecommunications and Other Equipment

Landlord and City acknowledge that Landlord's obligations pursuant to Section 6.1 (Premises Delivery) above shall not include the installation of telecommunications, data, and computer cabling facilities and equipment. City shall be responsible for installing such facilities and equipment, provided that Landlord shall furnish access to City and its consultants and contractors to the main telephone service serving the floor(s) on which the Premises are located and all other parts of the Building for which access is needed for proper installation of all such facilities and equipment including, but not limited to, wiring. Once City's Board of Supervisors adopts a resolution or ordinance that authorizes City's execution and delivery of this Lease, City may enter the Premises and such other portions of the Building at reasonable times during the ten (10) day prior to the Estimated Commencement Date in order to install such facilities and equipment, provided no business is conducted at the Premises during such ten (10) days. City and Landlord shall use their good faith efforts to coordinate any such activities to allow the installation of such facilities and equipment to be completed in a timely and cost-effective manner.

6.3 Construction of Improvements that Disturb or Remove Lead-Based Paint

Landlord, on behalf of itself and its successors, assigns, and Agents, shall comply with all requirements of the San Francisco Building Code Chapter 34 and all other applicable local, state, and Federal laws, including but not limited to the California and United States Occupational and Health Safety Acts and their implementing regulations, when any work of improvement or alteration by or on behalf of Landlord disturbs or removes exterior or interior lead-based or "presumed" lead-based paint (as defined below). Landlord and its Agents shall give to City three (3) business days' prior written notice of any disturbance or removal of exterior or interior lead-based or presumed lead-based paint. Landlord acknowledges that the required notification to the Department of Building Inspection regarding the disturbance or removal of exterior lead-based paint pursuant to Chapter 34 of the San Francisco Building Code does not constitute notification to City as Tenant under this Lease and similarly that notice under this Lease does not constitute notice under Chapter 34 of the San Francisco Building Code. Further, Landlord and its Agents, when disturbing or removing exterior or interior lead-based or presumed lead-based paint, shall not use or cause to be used any of the following methods: (a) acetylene or propane burning and torching; (b) scraping, sanding, or grinding without containment barriers or a High Efficiency Particulate Air filter ("HEPA") local vacuum exhaust tool; (c) hydroblasting or high-pressure

wash without containment barriers; **(d)** abrasive blasting or sandblasting without containment barriers or a HEPA vacuum exhaust tool; and **(e)** heat guns operating above 1,100 degrees Fahrenheit. Landlord shall comply with the requirements of Title 17 of the California Code of Regulations when taking measures that are designed to reduce or eliminate lead hazards. Under this Section, paint on the exterior or interior of buildings built before January 1, 1979 is presumed to be lead-based paint unless a lead-based paint test, as defined by Chapter 34 of the San Francisco Building Code, demonstrates an absence of lead-based paint on the interior or exterior surfaces of such buildings. Under this Section, lead-based paint is "disturbed or removed" if the work of improvement or alteration involves any action that creates friction, pressure, heat, or a chemical reaction upon any lead-based or presumed lead-based paint on a surface so as to abrade, loosen, penetrate, cut through, or eliminate paint from that surface.

7. ALTERATIONS

7.1 Alterations by City

City shall not make or permit any material alterations, installations, additions, or improvements (collectively, "**Alterations**") to the Premises without first obtaining Landlord's written consent, which Landlord shall not unreasonably withhold or delay. The installation of interior furnishings, fixtures, equipment, decorative improvements (none of which shall materially and deleteriously affect the Building Systems or the exterior or structural integrity of the Building), and the repainting and recarpeting of the Premises interior shall not constitute Alterations requiring Landlord's consent. Any Alterations permitted under this Lease shall be made at City's cost in compliance with applicable Laws. Without cost to itself, Landlord shall cooperate with City in securing building and other permits and authorizations needed in connection with any permitted Alterations. Landlord shall not be entitled to any construction or other administrative fee in connection with any Alteration. City shall not be required to remove any Alterations upon the expiration or sooner termination of this Lease unless Landlord notifies City in writing at the time Landlord approves such Alterations that they must be removed at the Expiration Date.

7.2 Title to Improvements

Except for City's Personal Property (defined in Section 7.3 (City's Personal Property) below), all appurtenances, fixtures, improvements, equipment, additions, and other property permanently installed in the Premises as of the Commencement Date or during the Term shall be and remain Landlord's property. City may not remove such property unless Landlord consents to such removal.

7.3 City's Personal Property

All furniture, furnishings, equipment, trade fixtures, and articles of movable personal property installed in the Premises by or for the account of City and that can be removed without structural damage to the Premises (collectively, "**City's Personal Property**") shall be and remain City's property. At any time during the Term or at the expiration of the Term, City may remove any of City's Personal Property, provided City shall repair any damage to the Premises resulting from such removal. Upon the expiration or earlier termination of this Lease, City shall remove City's Personal Property from the Premises in accordance with Article 20 (Surrender of Premises), below. Landlord acknowledges that some of City's Personal Property may be financed by an equipment lease financing otherwise subjected to a security interest, or owned by an equipment company and leased to City. Upon City's reasonable request, and subject to Landlord's reasonable approval, which shall not be withheld or delayed, Landlord shall execute and deliver any document required by any supplier, lessor, or lender in connection with the installation in the Premises of any items of City's Personal Property, pursuant to which Landlord waives any rights it may have or acquire with respect to City's Personal Property, so long as the

supplier, equipment lessor, or lender agrees that it **(a)** will remove the Property from the Premises within ten (10) days after the Expiration Date (but if it does not remove City's Personal Property within such time it shall have waived any rights it may have had to City's Personal Property), and **(b)** will promptly repair any damage caused by the removal of City's Personal Property. Landlord shall recognize the rights of any supplier, lessor, or lender who has an interest in any items of City's Personal Property to enter the Premises and remove such property **(i)** at any time during the Term or **(ii)**, upon at least one day's written notice to Landlord, within ten (10) days after the Expiration Date, but, if Landlord then requires, not without the presence of Landlord's designated representative.

7.4 Alteration by Landlord

Landlord shall use commercially reasonable efforts to minimize interference with or disruption to City's use and occupancy of the Premises caused by the performance of Landlord or its Agents of any alterations, installations, additions, or improvements to the Building, including without limitation any leasehold improvement work for other tenants in the Building. To the extent commercially reasonable, Landlord shall, promptly remedy any such interference or disruption upon receiving City's notice (a "**Disruption Notice**") of any such interference or disruption. If any such interference or disruption described in the Disruption Notice continues for two (2) business days or longer after the date Landlord received a Disruption Notice, and materially impairs City's ability to carry on its business in the Premises, the Rent payable under this Lease shall be abated based in proportion to the degree to which such interference or disruption impairs City's ability to carry on its business at the Premises. If any such interference or disruption described in the Disruption Notice continues for thirty (30) days or more after the date Landlord received a Disruption Notice, then, without limiting any of City's other rights under this Lease, City may terminate this Lease unless Landlord supplies City with evidence reasonably satisfactory to City that City's normal and safe use will be restored within sixty (60) days of the date Landlord received a Disruption Notice, and such use is actually restored within such 60-day period. This Section 7.4 does not pertain to any interference of disruption caused by casualty or eminent domain, and nothing in this Section 7.4 shall limit City's rights with respect to any disruption due to casualty or eminent domain as set forth below in Article 12 (Damage and Destruction) and/or Article 13 (Eminent Domain).

8. REPAIRS AND MAINTENANCE

8.1 Landlord's Repairs

Landlord shall repair and maintain, at its cost and in first-class condition, **(a)** the exterior and structural portions of the Building, including, without limitation, the roof, foundation, bearing and exterior walls and subflooring, **(b)** the "**Building Systems**" (defined as the heating, ventilating, air conditioning, plumbing, electrical, fire protection, life safety, security, and other mechanical, electrical, and communications systems of the Building) including those elements thereof that exclusively serve the Premises, and **(c)** the Common Areas. Without limiting the foregoing, Landlord shall maintain the Building in a clean, safe, and attractive manner, shall provide exterior graffiti removal with reasonable frequency, and shall make commercially reasonable efforts to prevent **(i)** any other tenants of the Building from disturbing or interfering with City's use of the Premises, and **(ii)** any condition to be present, or any activity, in or about the Building or the Common Areas that is illegal, dangerous to persons or property, or constitutes a nuisance.

8.2 City's Repairs

Subject to Landlord's warranty under Section 10.1 (Premises Condition and Landlord's Compliance with Laws; Indemnity), and any enforcement of construction warranties or guaranties received by Landlord in connection with the interior of the Premises or in connection

with Landlord's repair and maintenance obligations under this Lease, City shall repair and maintain at its cost the interior portions of the Premises and all communication, data, and computer lines/cabling exclusively serving the Premises in good working order and in a safe and sanitary condition, except for ordinary wear and tear and damage by casualty. City shall make any such required repairs and replacements that Landlord specifies in writing **(a)** at City's cost, **(b)** by contractors or mechanics selected by City and reasonably approved by Landlord, **(c)** so that same shall be at least substantially equal in quality, value, and utility to the original work or installation prior to the damage that requires such repair or replacement, **(d)** in a manner and using equipment and materials that will not materially interfere with or impair the operations, use, or occupation of the Building or the Building Systems, and **(e)** in compliance with all applicable Laws, including, without limitation, any applicable contracting requirements under City's Charter and Administrative Code. At all times during the Term of this Lease, upon reasonable notice by City, Landlord shall afford City and its Agents with access to those portions of the Building that are necessary to maintain or repair the telecommunications and data and computer cabling facilities and equipment installed by City. Subject to the provisions of Article 12 (Damage and Destruction), City shall also repair all damage (excluding ordinary wear and tear) to the Building and Common Areas caused by Tenant's negligence or willful misconduct, including making replacements if necessary; provided Landlord may elect to repair such damage caused by Tenant, in which event Tenant shall reimburse Landlord for the reasonable costs incurred in making the necessary repairs/replacements.

8.3 Liens

City shall keep the Premises free from liens arising out of any work performed, material furnished, or obligations incurred by City during the Term. Landlord may post on the Premises any notices permitted or required by law or that are needed for the protection of Landlord, the Premises, or the Building, from mechanics' and material suppliers' liens. City shall give Landlord at least ten (10) days' prior, written notice of commencement of any repair or construction by City on the Premises by any third-party contractors.

9. UTILITIES AND SERVICES

9.1 Landlord's Provision of Utilities

Landlord shall furnish, or cause to be furnished, to the Premises, at Landlord's cost, gas and water, as set forth in the attached Exhibit D. Landlord shall furnish, or cause to be furnished, necessary electricity, gas, and water to the Building and the Common Areas, subject to any rights Landlord may have to recover those costs from tenants.

9.2 Electricity

On or before the Commencement Date, Landlord shall cause the Premises to be equipped with electrical service. City shall contract with, and pay directly, the appropriate electrical utility for the provision of electricity within the Premises.

9.3 Services

(a) Janitorial Service.

Landlord shall provide, at Landlord's cost, janitorial service within the Premises and for the Building in accordance with the specifications contained in the attached Exhibit E. If City continually overburdens the collection process above that of a typical tenant such that it materially increases Landlord's cost or hinders the Landlord's ability to provide first class janitorial services to the rest of the Building, City shall be responsible for reimbursing Landlord for its actual incremental costs so incurred.

(b) Security Service

Landlord shall provide security for the Building in accordance with the specifications contained in the attached **Exhibit F**. Subject to the provisions of **Section 4.4** (Operating Costs; Definitions), **Section 4.5** (Payment of Percentage Share of Operating Costs), and the attached **Exhibit C**, Landlord may include the costs for such Building Security as an Operating Cost. Landlord shall not be liable to City to the extent the criminal activities of third persons on the Property cause or result in death, personal injury, or property damage or loss.

9.4 Telecommunications

AT&T and Comcast provide ISP service in the building. At City's cost, Landlord shall make reasonable accommodations necessary for the installation of other telecommunications lines as may be needed for Tenant's operations, including connections to City's fiber system. Any such installation shall not result in any material adverse impact on the Building or the Premises.

9.5 Conservation

Landlord may establish reasonable measures to conserve energy and water, including automatic light shut-off after hours and efficient lighting forms, so long as these measures do not unreasonably interfere with City's use of the Premises.

9.6 Disruption in Essential Utilities or Services

In the event of any failure, stoppage, or interruption of any utilities or services to be furnished by Landlord under this Lease, Landlord shall immediately notify City of such failure, stoppage, or interruption, make commercially reasonable efforts to diligently attempt to restore service as promptly as possible, and keep City apprised of Landlord's efforts. If Landlord, as a result of its negligence or fault, fails or is unable to supply any of the services it is required to provide pursuant to this Lease (collectively, "**Required Services**") and such inability of Landlord impairs City's ability to carry on its business in the Premises for a period of two (2) or more business days, then the Rent shall be abated based in proportion to the degree to which such Landlord failure impairs City's ability to carry on its business in the Premises, or, alternatively at City's election, City shall have the option to provide such services and offset the reasonable cost of such services against the Rent next due under this Lease. Such abatement, or right to provide the services and offset against Rent, shall continue until the Required Services have been restored so that the lack of any remaining services no longer materially impairs City's ability to carry on its business in the Premises. Landlord shall use diligent efforts to restore disrupted Required Services as soon as possible. However, if such failure to provide any Required Services continues for thirty (30) days, and such failure interferes with City's ability to carry on its business in the Premises, then, without limiting any of its other rights or remedies hereunder or at law or in equity, City may terminate this Lease upon written notice to Landlord, unless Landlord supplies City with evidence reasonably satisfactory to City that the Required Services (which have been interrupted as a result of Landlord's negligence or fault) will be restored within sixty (60) days of the date City's use was interrupted, and such Required Services are actually restored within such 60-day period. City shall not be entitled to any abatement of Rent or right to terminate if Landlord's inability to supply Required Services to City results solely from the acts, omissions, or negligence of City and its Agents.

10. COMPLIANCE WITH LAWS; PREMISES CONDITION

10.1 Premises Condition and Landlord's Compliance with Laws; Indemnity

Landlord represents and warrants to City, and covenants with City, that, to its actual knowledge: **(a)** as of the Commencement Date, the physical structure, fixtures, and permanent improvements of the Premises, and all portions of the Property and the Building along the path of travel to the Premises (including, but not limited to, the Premises entrances, Common Areas, restrooms, elevators, lobbies, drinking fountains) will comply with the requirements of the Americans With Disabilities Act of 1990 and Title 24 of the California Code of Regulations and all other applicable federal, state, local, and administrative laws, rules, regulations, orders, and requirements intended to provide equal accessibility for persons with disabilities (collectively, "**Disabilities Laws**"); **(b)** the Building, the Common Areas and Building Systems serving the Premises will, as of the Commencement Date, be in full compliance with all applicable building codes; and **(c)** as of the Commencement Date there will not be any material physical or mechanical defects in the Premises, the Building, or the Building Systems that would materially adversely affect City's intended use of the Premises for general office purposes. Landlord shall at all times during the Term maintain the Property, Building, Common Areas, and the Building Systems serving the Premises in compliance with all applicable present or future federal, state, local, and administrative laws, rules, regulations, orders, and requirements (collectively, "**Laws**"), except to the extent, if any, that the Property is otherwise "grandfathered" and thus exempt from compliance. Without limiting Section 16.2 (Landlord's Indemnity), Landlord shall indemnify City against any and all Claims arising out of any failure of any portion of any of the Property, Building, Common Areas, or Building Systems to comply with applicable Laws as provided in this Section or any misrepresentation by Landlord under this Section, except to the extent such failure to comply results from Tenant's negligence or willful misconduct.

10.2 City's Compliance with Laws; Indemnity

City shall use the Premises during the Term in compliance with applicable Laws, except that City shall not be required to make any structural alterations, additions, or other modifications in order to comply with any such Laws unless such modifications are necessary solely because of any Alterations to the Premises made by City pursuant to Article 7 (Alterations) above or because of Tenant's negligence or willful misconduct. City shall be responsible for complying with any requirement of the Disabilities Laws relating to the placement of City's furniture or other City Personal Property and the operation of any programs in the Premises, other than any requirement relating to the physical structure, fixtures, and permanent improvements of the Premises or portions of the Property or Building along the path of travel to the Premises, which are Landlord's obligation as provided in Section 10.1 (Premises Condition and Landlord's Compliance with Laws; Indemnity) above. Without limiting Section 16.1 (City's Indemnity), City shall Indemnify Landlord against any and all Claims to the extent arising out of City's failure to comply with all applicable Laws as provided in this Section.

10.3 City's Compliance with Insurance Requirements

City shall not conduct any use in or about the Premises that would: **(a)** invalidate or be in conflict with any fire or other casualty insurance policies covering the Building or any property located in the Building, **(b)** result in a refusal by fire insurance companies of good standing to insure the Building or any such property in amounts reasonably satisfactory to Landlord or the holder of any mortgage or deed of trust encumbering the Building, **(c)** cause an increase in the fire insurance premium for the Building unless City agrees to pay such increase, or **(d)** subject Landlord to any liability or responsibility for injury to any person or property by reason solely of any business operation being conducted by City in the Premises; provided, however, Landlord shall provide City with reasonable prior, written notice of any applicable insurance requirements.

11. SUBORDINATION

(a) This Lease shall be subject and subordinate at all times to any (i) reciprocal easement agreements, (ii) ground leases, or other underlying leases affecting Landlord's interest in any portion of the Property as of the date of this Lease, and (iii) the lien of any mortgages or deeds of trust affecting Landlord's interest in any portion of the Property as of the date of this Lease, and renewals, modifications, consolidations, replacements, and extensions of any of the foregoing (each item described in clauses (ii) and (iii) above may be referred to as an "**Encumbrance**"). At City's request, the holder of a currently existing Encumbrance shall enter into a non-disturbance agreement between City and the holder of the Encumbrance, in a form reasonably acceptable to City and the holder of the Encumbrance, evidencing that this Lease is subordinate to such Encumbrance, and containing language to the effect that, if the mortgage or deed of trust is foreclosed, or a deed in lieu of foreclosure is given to the mortgagee or beneficiary, or if the ground lease or underlying lease is terminated, this Lease shall not be barred, terminated, cut off, or foreclosed, nor shall the rights and possession of City hereunder be disturbed if City shall not then be in default in the payment of Rent or otherwise be in default under the terms of this Lease. Notwithstanding the foregoing, if the ground lessor, mortgagee, trustee, or holder of any such mortgage or deed of trust elects to have City's interest in this Lease be superior to any such instrument, then upon notice of such election to City, this Lease shall be deemed superior, whether this Lease was executed before or after the date of said instrument or the recording thereof..

(b) City will, within twenty (20) days after receipt of Landlord's request, subordinate this Lease to any future Encumbrance, provided that the holder of the Encumbrance executes a subordination and non-disturbance agreement with City in a form reasonably acceptable to City and the holder of the Encumbrance evidencing that this Lease is subordinate to such Encumbrance, and containing language to the effect that, if the mortgage or deed of trust to which this Lease is being subordinated is foreclosed, or a deed in lieu of foreclosure is given to the mortgagee or beneficiary, or if the ground lease or underlying lease to which this Lease is being subordinated is terminated, this Lease shall not be barred, terminated, cut off, or foreclosed, nor shall the rights and possession of City hereunder be disturbed if City shall not then be in default in the payment of Rent or otherwise be in default under the terms of this Lease, and in such event, City shall attorn to and become the tenant of the successor-in-interest to Landlord, provided that City has received proper written notice of such succession and the name and address of the successor landlord.

(c) City shall execute, however, upon Landlord's request and in a form reasonably acceptable to City, any additional documents evidencing the priority or subordination of this Lease with respect to any such Encumbrance as provided above.

12. DAMAGE AND DESTRUCTION

If the Premises are damaged by fire or other insured casualty and required repairs can be made under applicable Laws within two hundred ten (210) days after the date of such damage (the "**Repair Period**"), or if any portion of the Building or any Building Systems are damaged by fire or other insured casualty, such damage has a materially adverse effect upon Tenant's ability to operate its business from the Premises and such materially adverse effect on Tenant's ability to operate its business can be eliminated within the Repair Period, then Landlord shall repair the same without delay. In such event, this Lease shall remain in full force and effect, except that City shall be entitled to an abatement of Rent until such repairs to the Premises are completed and the materially adverse effect upon Tenant's ability to operate its business from the Premises is eliminated. Such abatement in Rent shall be based upon the extent to which such damage and the making of such repairs interfere with City's business in the Premises. Landlord's repairs shall not include, and the Rent shall not be abated as a result of, any damage

by fire or other cause to City's Personal Property or any damage caused by the negligence or willful misconduct of City or its Agents.

Within twenty (20) days after the date of any casualty damage, Landlord shall notify City whether or not, in Landlord's reasonable judgment made in good faith, **(a)** such repairs can be made within the Repair Period, and **(b)** any materially adverse effect on Tenant's business can be eliminated within the Repair Period. If such repairs cannot be made within the Repair Period or any materially adverse effect upon Tenant's business cannot be eliminated within the Repair Period, then by written notice to the other Party given within thirty (30) days after the date of such damage, either Party may terminate this Lease as of the date specified in such notice, which date shall be not less than thirty (30) nor more than sixty (60) days after notice is given by Landlord. In case of termination, the Rent shall be reduced by a proportionate amount based upon the extent to which such damage interferes with the conduct of City's business in the Premises, and City shall pay such reduced Rent up to the date of termination. Landlord shall refund to City any Rent previously paid for any period of time subsequent to such date of termination.

Notwithstanding the foregoing, in the event the Premises are damaged or destroyed by reason of flood, earthquake, or other casualty that is not covered by insurance required to be purchased by Landlord pursuant to this Lease, and such damage or destruction is not fully covered by insurance proceeds payable under the insurance policies Landlord is required to carry under this Lease (excluding any deductible), Landlord may terminate this Lease by written notice to City within thirty (30) days of the date Landlord receives written notice that such damage is not fully covered by insurance. Such notice from Landlord shall include adequate written evidence of the lack of full insurance coverage. If Landlord does not elect to terminate this Lease as provided above, this Lease shall remain in full force and effect, and Landlord shall repair and restore the Premises as provided above.

If at any time during the last six (6) months of the Term of this Lease there is any damage caused to the Premises by fire or other casualty, each Party, at its respective option, may terminate this Lease as of the date such damage occurred by giving written notice to the other Party of its election to do so within thirty (30) days after the date of such damage; provided, however, Landlord may terminate this Lease only if it would take more than thirty (30) days to repair such damage.

The Parties intend that the provisions of this Section govern fully their rights and obligations in the event of damage or destruction, and Landlord and City each hereby waives and releases any right to terminate this Lease in whole or in part under Section 1932, subdivision 2, Section 1933, subdivision 4, and Sections 1941 and 1942 of the Civil Code of California or under any similar law, statute, or ordinance now or hereafter in effect, to the extent such rights are inconsistent with the provisions of this Article 12.

13. EMINENT DOMAIN

13.1 Definitions

(a) "Taking" means a taking or damaging, including severance damage, by eminent domain, inverse condemnation, or for any public or quasi-public use under law. A Taking may occur pursuant to the recording of a final order of condemnation, or by voluntary sale or conveyance in lieu of condemnation, or in settlement of a condemnation action.

(b) "Date of Taking" means the earlier of **(i)** the date upon which title to the portion of the Property taken passes to and vests in the condemnor or **(ii)** the date on which Tenant is dispossessed.

(c) "Award" means all compensation, sums, or anything of value paid, awarded, or received for a Taking, whether pursuant to judgment, agreement, settlement, or otherwise.

13.2 General

If during the Term or during the period between the execution of this Lease and the Commencement Date, there is any Taking of all or any part of the Premises or any interest in this Lease, the rights and obligations of the Parties shall be determined pursuant to this Article 13. City and Landlord intend that the provisions of this Article 13 shall govern fully in the event of a Taking and accordingly, the parties each hereby waive any right to terminate this Lease in whole or in part under Sections 1265.110, 1265.120, 1265.130, and 1265.140 of the California Code of Civil Procedure or under any similar law now or hereafter in effect.

13.3 Total Taking; Automatic Termination

If there is a total Taking of the Premises, then this Lease shall terminate as of the Date of Taking.

13.4 Partial Taking; Election to Terminate

(a) If there is a Taking of any portion (but less than all) of the Premises, then this Lease shall terminate in its entirety if all of the following exist: (i) the partial Taking, in City's reasonable judgment, renders the remaining portion of the Premises untenable or unsuitable for continued use by City for its intended purposes or otherwise materially adversely affects City's normal operations in the Premises, (ii) the condition rendering the Premises untenable or unsuitable either is not curable or is curable but Landlord is unwilling or unable to cure such condition, and (iii) City elects to terminate.

(b) In the case of a partial Taking of a substantial portion of the Building, and if subsection (a) above does not apply, City and Landlord shall each have the right to terminate this Lease by written notice to the other within thirty (30) days after the Date of Taking, provided that, as a condition to City's right to terminate, in City's reasonable judgment, the portion of the Building taken shall render the Premises unsuitable for continued use by City for its intended purposes or otherwise materially adversely affect City's normal operations in the Premises.

(c) Either Party electing to terminate under the provisions of this Section 13.4 shall do so by giving written notice to the other Party before or within thirty (30) days after the Date of Taking is established, and thereafter this Lease shall terminate upon the later of the thirtieth (30th) day after such written notice is given or the Date of Taking.

13.5 Termination of Lease; Rent and Award

Upon termination of this Lease in its entirety pursuant to Section 13.3, or pursuant to an election under Section 13.4 above, then: (a) City's obligation to pay Rent shall continue up until the date of termination and thereafter shall cease, and (b) Landlord shall be entitled to the entire Award in connection with the Taking that resulted in such termination, except that City shall receive any Award made specifically for City's relocation expenses or the interruption of or damage to City's business or damage to City's Personal Property.

13.6 Partial Taking; Continuation of Lease

If there is a partial Taking of the Premises under circumstances where this Lease is not terminated in its entirety under Section 13.4 above, then this Lease shall terminate as to the

portion of the Premises so taken, but shall remain in full force and effect as to the portion not taken, and the rights and obligations of the parties shall be as follows: **(a)** Rent shall be reduced by an amount that is in the same ratio to the Rent as the area of the Premises taken bears to the area of the Premises prior to the Date of Taking, and **(b)** Landlord shall be entitled to the entire Award in connection with such partial Taking, provided that City shall receive any Award made specifically for City's relocation expenses or the interruption of or damage to City's business or damage to City's Personal Property.

13.7 Temporary Taking

Notwithstanding anything to contrary in this Section, if a Taking occurs with respect to the Premises for a limited period of time not in excess of sixty (60) consecutive days, this Lease shall remain unaffected thereby, and City shall continue to pay Rent and to perform all of the terms, conditions, and covenants of this Lease. In the event of such temporary Taking, City shall be entitled to receive that portion of any Award representing compensation for the use or occupancy of the Premises during the Term up to the total Rent owing by City for the period of the Taking.

14. ASSIGNMENT AND SUBLETTING

Except as provided in this Section below, City shall not directly or indirectly sell, assign, encumber, pledge, or otherwise transfer or hypothecate all or any part of its interest in or rights with respect to the Premises or its leasehold estate under this Lease, or permit all or any portion of the Premises to be occupied by anyone other than itself, or sublet all or any portion of the Premises, without Landlord's prior written consent in each instance, which shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, City shall have the right, without Landlord's consent, to allow use of the Premises by any of City's departments, commissions, or agencies (a "**City Affiliate**") for uses permitted under this Lease and such use shall not be subject to Landlord's consent considered a sublease. Landlord shall not have the right to recapture in the event of an attempted assignment or sublease that violates the terms of this Lease. In the event of any assignment of this Lease to a person or entity that is not a City Affiliate or a sublease to a person or entity that is not a City Affiliate (each a "**Non-Affiliate**"), to the extent that any amounts paid to City for occupancy of the Premises by such Non-Affiliate exceed amounts then payable by City as Base Rent for the portion of the Premises occupied by such Non-Affiliate ("**Excess Rent**"), City shall pay to Landlord fifty percent (50%) of all Excess Rent received by City from any such Non-Affiliate.

15. DEFAULT; REMEDIES

15.1 Events of Default by City

Any of the following shall constitute an event of default by City under this Lease:

(a) City's failure to make any timely payment of Rent and to cure such nonpayment within five (5) business days after receipt of Landlord's written notice specifying such failure, provided that for the first two (2) monthly payments of Rent at the beginning of the Term and for the first monthly payment of Rent after the beginning of each new fiscal year for City, City shall have twenty (20) days to cure any such nonpayment after Landlord's written notice;

(b) City's abandons the Premises (within the meaning of California Civil Code Section 1951.3); or

(c) City's failure to perform any other covenant or obligation of City under this Lease (not involving the payment of money) and to cure such non-performance within

thirty (30) days of the date of receipt of Landlord's notice specifying such failure, provided that if more than thirty (30) days are reasonably required for such cure, no event of default shall occur if City commences such cure within such period and diligently prosecutes such cure to completion.

15.2 Landlord's Remedies

Upon the occurrence of any event of default by City that is not cured within the applicable grace period as provided above, Landlord shall have all rights and remedies available pursuant to law or granted hereunder, including the following:

(a) The rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including, but not limited to, the right to terminate City's right to possession of the Premises and to recover the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that City proves could be reasonably avoided, as computed pursuant to subsection (b) of such Section 1951.2.

(b) The rights and remedies provided by California Civil Code Section 1951.4 (continuation of lease after breach and abandonment), which allows Landlord to continue this Lease in effect and to enforce all of its rights and remedies under this Lease, including the right to recover Rent as it becomes due, for so long as Landlord does not terminate City's right to possession, if City has the right to sublet or assign, subject only to reasonable limitations.

15.3 Landlord's Default

If Landlord fails to perform any of its obligations under this Lease, then (without limiting any of City's other cure rights under this Lease) at its sole option, City may cure such default at Landlord's expense if such default continues after thirty (30) days from the date City gives notice to Landlord of City's intention to perform such cure. In the case of a default that, for causes beyond Landlord's control (excluding any financial inability to perform), cannot with due diligence be cured within such thirty (30)-day period, such thirty (30)-day period shall be extended as reasonably required if, promptly upon receipt of City's notice, Landlord advises City of Landlord's intention to take all steps required to cure such default, and Landlord promptly commences such cure and diligently prosecutes the same to completion. Subject to the other provisions of this Lease relating to abatement of Rent, if Landlord fails to cure any default within the cure period provided above, then, whether or not City elects to cure Landlord's default as provided in this Lease, the Base Rent and any other charges hereunder shall be abated based on the extent to which such default interferes with City's ability to carry on its business at the Premises. Notwithstanding the foregoing, if any such default by Landlord continues for sixty (60) days and impairs City's ability to carry on its business in the Premises, then City shall have the right to terminate this Lease upon written notice to Landlord within thirty (30) days after the expiration of such sixty (60)-day period. City's rights under this Section 15.3 and under Section 3.3 (Delay in Delivery of Possession), Section 5.3 (Interference with Access), and Section 9.4 (Disruption in Essential Services), shall not limit in any way any of its other rights and remedies under this Lease or at law or in equity.

16. INDEMNITIES

16.1 City's Indemnity

City shall indemnify, defend, and hold harmless ("**Indemnify**") Landlord and its Agents from and against any and all claims, costs, and expenses, including, without limitation, reasonable attorneys' fees (collectively, "**Claims**"), to the extent incurred as a result of (a) City's

use of the Premises, **(b)** any default by City in the performance of any of its material obligations under this Lease, or **(c)** any negligent acts or omissions of City or its Agents in, on, or about the Premises or the Property; provided, however, City shall not be obligated to Indemnify Landlord or its Agents to the extent any Claim arises out of the negligence or willful misconduct of Landlord or its Agents. In any action or proceeding brought against Landlord or its Agents by reason of any Claim Indemnified by City under this Lease, at its sole option, City may elect to defend such Claim by attorneys in City's Office of the City Attorney, by other attorneys selected by City, or both. City shall have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that Landlord shall have the right, but not the obligation, to participate in the defense of any such Claim at its sole cost. City's obligations under this Section shall survive the termination of the Lease.

16.2 Landlord's Indemnity

Landlord shall Indemnify City and its Agents against any and all Claims to the extent incurred as a result of **(a)** any default by Landlord in the performance of any of its obligations under this Lease or any breach of any representations or warranties made by Landlord under this Lease, or **(b)** any negligent acts or omissions of Landlord or its Agents in, on, or about the Premises or the Property; provided, however, Landlord shall not be obligated to Indemnify City or its Agents to the extent any Claim arises out of the negligence or willful misconduct of City or its Agents. In any action or proceeding brought against City or its Agents by reason of any Claim Indemnified by Landlord under this Lease, at its sole option, Landlord may elect to defend such Claim by attorneys selected by Landlord. Landlord shall have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that City shall have the right, but not the obligation, to participate in the defense of any such Claim at its sole cost. Landlord's obligations under this Section shall survive the termination of this Lease.

17. INSURANCE

17.1 City's Self-Insurance

Landlord acknowledges that City maintains a program of self-insurance and agrees that City shall not be required to carry any insurance with respect to this Lease. City assumes the risk of damage to any of City's Personal Property to the extent such damage is caused by a risk that could be covered by a Special Form Policy of property insurance and, notwithstanding the provisions of Section 17.3 [Waiver of Subrogation] below, will not seek any recovery from Landlord or its insurers for the loss of City's Personal Property unless, and only to the extent, caused by the willful misconduct of Landlord or its Agents.

17.2 Landlord's Insurance

At all times during the Term, Landlord shall keep the Building (excluding the land upon which it is located) insured against damage and destruction by fire, vandalism, malicious mischief, sprinkler damage, and other perils customarily covered under a cause of loss-special form property insurance policy in an amount equal to one hundred percent (100%) of the full insurance replacement value (replacement cost new, including, debris removal and demolition) thereof. Upon City's request, Landlord shall provide to City a certificate of insurance issued by the insurance carrier, evidencing the insurance required above. Each certificate will provide that Landlord shall receive not less than thirty (30) days' notice (ten (10) days' in the event of cancellation for nonpayment) of any nonrenewal or material reduction in any insurance coverage. Landlord shall inform Tenant promptly of Landlord's receipt of any such notice.

In addition, Landlord shall procure and keep in effect at all times during the Term insurance as follows: **(a)** Commercial general liability insurance with limits not less than One

Million Dollars (\$1,000,000) each occurrence combined single limit for bodily injury and property damage, including contractual liability, independent contractors, broad-form property damage, fire damage legal liability (of not less than Fifty Thousand Dollars (\$50,000)), personal injury, products and completed operations, and explosion, collapse and underground (XCU); and (b) Worker's Compensation Insurance with Employer's Liability Limits not less than required by law. All insurance policies will provide that Landlord shall receive not less than thirty (30) days' notice (ten (10) days' in the event of cancellation for nonpayment) of any nonrenewal or material reduction in any insurance coverage. Landlord shall inform Tenant promptly of Landlord's receipt of any such notice.

17.3 Waiver of Subrogation

Notwithstanding anything to the contrary in this Lease, Landlord and City each hereby waives any right of recovery against the other Party for any loss of or damage to the Property and/or the Premises or any contents within the Building or the Premises, whether or not such loss is caused by the fault or negligence of the other Party, to the extent such loss or damage is covered by insurance that is required to be carried under this Lease, is otherwise actually recovered from insurance held by the waiving Party or its Agents. Each Party shall obtain a waiver of subrogation endorsement from any applicable insurance carriers issuing policies relating to the Building or the Premises; provided, failure to do so shall not affect the above waiver.

18. ACCESS BY LANDLORD

Landlord reserves for itself and any designated Agent the right to enter the Premises at all reasonable times, except in cases of emergency (in which event Landlord shall give any reasonable notice), after giving City at least twenty four (24) hours' advance notice, for the purpose of (a) inspecting the Premises, (b) supplying any service to be provided by Landlord hereunder, (c) showing the Premises to any prospective purchasers, mortgagees, or, during the last six (6) months of the Term of this Lease, tenants, (d) posting notices of non-responsibility, and (e) altering, improving, or repairing the Premises and any portion of the Building, and Landlord may for that purpose erect, use, and maintain necessary structures in and through the Premises where reasonably required by the character of the work to be performed, provided that the entrance to the Premises shall not be blocked thereby. Throughout the Term, Landlord shall make commercially reasonable efforts to minimize any interference that results from Landlord's activities allowed by this Section.

19. ESTOPPEL CERTIFICATES

From time to time during the Term, by delivery of not less than ten (10) days' prior written notice to the other Party, either Party may reasonably request the other Party to execute, acknowledge, and deliver to such persons or entities designated by such Party a certificate stating: (a) the Commencement Date and Expiration Date of this Lease, (b) that this Lease is unmodified and in full force and effect (or, if there have been modifications, this the Lease is in full force and effect as modified and stating the modifications), (c) that there are no defaults under this Lease (or if so, specifying the same), (d) the date to which Rent has been paid, and (e) such other information regarding this Lease as may be reasonably requested.

20. SURRENDER OF PREMISES

Upon the expiration or sooner termination of this Lease, City shall surrender the Premises to Landlord in good order and condition, reasonable use and wear and damage by fire or other casualty excepted. Prior to the Expiration Date, City shall remove from the Premises all of City's Personal Property, including City's telecommunications, data and computer facilities, and any Alterations City desires or is required to remove from the Premises pursuant to the

provisions of Section 7.1 (Alterations by City) above. City shall repair or pay the cost of repairing any damage to the Premises or the Building resulting from such removal. City's obligations under this Section shall survive the expiration or earlier termination of this Lease.

21. HAZARDOUS MATERIALS

21.1 Definitions

As used in this Lease, the following terms shall have the meanings set forth below:

(a) "**Environmental Laws**" shall mean any federal, state, local, or administrative law, rule, regulation, order, or requirement relating to industrial hygiene, environmental conditions, or Hazardous Material, whether now in effect or hereafter adopted.

(b) "**Hazardous Material**" shall mean any material that, because of its quantity, concentration, or physical or chemical characteristics, is deemed by any federal, state, or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended (42 U.S.C. Section 9601 et seq.), or pursuant to Section 25316 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials, whether or not such materials are part of the structure of the Building or are naturally occurring substances on or about the Property; and petroleum, including crude oil or any fraction thereof, natural gas, or natural gas liquids.

(c) "**Release**" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside the Building, or in, on, under, or about the Property.

21.2 Landlord's Representations and Covenants

Landlord represents and warrants to City that, to Landlord's actual knowledge and without duty of inquiry, the following statements are true and correct and will be true and correct as of the Commencement Date: (a) the Property is not in violation of any Environmental Laws; (b) the Property is not now, nor has it been, used for the manufacture, use, storage, discharge, deposit, transportation, or disposal of any Hazardous Material, except for the use of such substances in such limited quantities as are customarily used in offices, restaurants, and retail facilities, which limited use has been and is in compliance with Environmental Laws; (c) the Property does not consist of any landfill or contain any underground storage tanks; (d) the Building does not consist of any asbestos-containing materials or building materials that contain any other Hazardous Material, nor do the Premises or the Common Areas contain any lead-based paints; (e) there has been and is no Release of any Hazardous Material in the Building or in, on, under, or about the Property; and (f) the Property is not subject to any claim by any governmental regulatory agency or third party related to the Release of any Hazardous Material, and there is no inquiry by any governmental agency (including, without limitation, the California Department of Toxic Substances Control or the Regional Water Quality Control Board) with respect to the presence of Hazardous Material in the Building or in, on, under, or about the Property, or the migration of Hazardous Material from or to other real property. Subject to City's obligations stated in this Article below, Landlord shall maintain the Property throughout the Term in compliance with all Environmental Laws that could affect the health, safety, and welfare of City's employees or City's use, occupancy, or enjoyment of the Premises for their intended purposes.

21.3 Landlord's Environmental Indemnity

Without limiting Landlord's Indemnity in Section 16.2 (Landlord's Indemnity), above, Landlord shall Indemnify City and its Agents against any and all Claims arising during or after the Term of this Lease **(a)** as a result of any breach of any of Landlord's representations, warranties, or covenants in the preceding Section, or **(b)** in connection with any presence or Release of Hazardous Material in the Building or on, under, or about the Property in violation of Environmental Laws, but only to the extent caused by Landlord or its Agents or negligently or willfully permitted by Landlord or its Agents.

21.4 City's Covenants

Neither City nor its Agents shall cause any Hazardous Material to be brought upon, kept, used, stored, generated, or disposed of in, on, or about the Premises or the Property, or transported to or from the Premises or the Property, in violation of any Environmental Laws, provided that City may use such substances in such limited amounts as are customarily used in offices so long as such use is in compliance with all applicable Environmental Laws.

21.5 City's Environmental Indemnity

If City breaches its obligations contained in the preceding Section 21.4, or if City or its Agents cause the Release of Hazardous Material from, in, on, or about the Premises or the Property, then City shall Indemnify Landlord against any and all Claims arising during or after the Term of this Lease as a result of such Release, except to the extent Landlord or its Agents is responsible for the Release. The foregoing Indemnity shall not include any Claims resulting from the non-negligent aggravation by City, its Agents, or Invitees of physical conditions of the Premises, or other parts of the Property, existing prior to City's occupancy.

22. GENERAL PROVISIONS

22.1 Notices

Except as otherwise specifically provided in this Lease, any notice given under this Lease shall be in writing and given by delivering the notice in person or by commercial courier, or by sending it by first-class mail, certified mail, return receipt requested, or Express Mail, return receipt requested, with postage prepaid, to: **(a)** City at Tenant's address set forth in the Basic Lease Information; or **(b)** Landlord at Landlord's address set forth in the Basic Lease Information; or **(c)** such other address as either Landlord or City may designate as its new address for such purpose by notice given to the other in accordance with this Section. Correctly addressed and dispatched notices shall be deemed given upon the earlier of confirmed actual delivery or confirmed attempted delivery. For convenience of the Parties, copies of notices may also be given by telefacsimile or e-mail from time to time; however, neither Party may give official or binding notice by facsimile or e-mail.

22.2 No Implied Waiver

No failure by either Party to insist upon the strict performance of any obligation of the other Party under this Lease or to exercise any right, power, or remedy consequent upon a breach of this Lease shall constitute a waiver of any such breach or of such term, covenant, or condition. No acceptance of full or partial Rent by Landlord while City is in default under this Lease shall constitute a waiver of such default by Landlord. No express written waiver of any default or the performance of any provision of this Lease shall affect any other default or performance, or cover any other period of time, other than the default, performance, or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision of this Lease shall not be deemed to be a waiver of a subsequent default or

performance. The consent of Landlord or City given in one instance under the terms of this Lease shall not relieve the other Party of any obligation to secure the consent to any other or future instance under the terms of the Lease.

22.3 Amendments

Neither this Lease nor any of its terms or provisions may be changed, waived, discharged, or terminated, except by a written instrument signed by the Party against which the enforcement of the change, waiver, discharge, or termination is sought. No waiver of any breach shall affect or alter this Lease, but each and every term, covenant, and condition of this Lease shall continue in full force and effect with respect to any other then-existing or subsequent breach of this Lease. Whenever this Lease requires or permits the giving by City of its consent or approval, the Director of Property, or his or her designee, shall be authorized to provide such approval, except as otherwise provided by applicable law, including City's Charter. Any amendments or modifications to this Lease, including, without limitation, amendments to or modifications to the exhibits to this Lease, shall be subject to the Parties' mutual written agreement, and City's agreement may be made upon the sole approval of the Director of Property, or his or her designee; provided, however, material amendments or modifications to this Lease that (a) change the legal description of the Premises, (b) increase the Term, (c) increase the Rent, (d) change the general use of the Premises from the use authorized under Section 5.1 (Permitted Use) of this Lease, or (e) materially increase City's liabilities or financial obligations under this Lease shall additionally require the approval of City's Board of Supervisors.

22.4 Authority

Landlord represents and warrants to City that the execution and delivery of this Lease by Landlord has been duly authorized and does not violate any provision of any agreement, law, or regulation to which Landlord or the Property is subject.

22.5 Parties and Their Agents; Approvals

If applicable, the word "**Landlord**" as used in this Lease shall include the plural as well as the singular. As used in this Lease, the term "**Agents**" when used with respect to either Party shall include the agents, employees, officers, and contractors of such Party, and the term "**Invitees**" when used with respect to City shall include the clients, customers, invitees, guests, licensees, assignees, or subtenants of City. All approvals, consents, or other determinations permitted or required by City under this Lease, including the exercise of any option granted to City, shall be made by or through City's Director of Property unless otherwise provided in this Lease, subject to any applicable limitations in City's Charter or other applicable Laws.

22.6 Interpretation of Lease

The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Lease. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Lease and shall be interpreted to achieve the intent and purposes of the parties, without any presumption against the Party responsible for drafting any part of this Lease. Except as otherwise specifically provided in this Lease, wherever in this Lease Landlord or City is required or requested to give its consent or approval to any matter or action by the other, such consent or approval shall not be unreasonably withheld or delayed and the reasons for disapproval of consent shall be stated in reasonable detail in writing. Provisions in this Lease relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice, or to undertake any other action occurs on a

Saturday, Sunday, or a bank or City holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word "**including**" or similar words shall not be construed to limit any general term, statement, or other matter in this Lease, whether or not language of non-limitation, such as "without limitation" or similar words, are used.

22.7 Successors and Assigns

Subject to the provisions of Article 14 (Assignment and Subletting), the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of Landlord and City and, except as otherwise provided in this Lease, their personal representatives and successors and assigns. There are no third-party beneficiaries to this Lease.

22.8 Brokers

Neither Party has had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the lease transaction contemplated by this Lease, except for the broker, if any, identified in the Basic Lease Information, whose commission, if any is due, shall be the sole responsibility of Landlord pursuant to a separate written agreement between Landlord and such broker, and City shall have no liability therefor. In the event that any other broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings, or communication, the Party through whom the broker or finder makes his claim shall be responsible for such commission or fee and shall Indemnify the other Party from any and all Claims incurred by the indemnified Party in defending against the same. The provisions of this Section shall survive any termination of this Lease.

22.9 Severability

If any provision of this Lease or its application to any person, entity, or circumstance shall be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons, entities, or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Lease shall be valid and be enforceable to the full extent permitted by law, except to the extent that enforcement of this Lease without the invalidated provision would be unreasonable or inequitable under all the circumstances or would frustrate a fundamental purpose of this Lease.

22.10 Governing Law

This Lease shall be construed and enforced in accordance with the laws of the State of California and City's Charter.

22.11 Entire Agreement

The Parties intend that this Lease (including all of the attached exhibits, which are made a part of this Lease) shall be the final expression of their agreement with respect to the subject matter of this Lease and may not be contradicted by evidence of any prior or contemporaneous written or oral agreements or understandings. The Parties further intend that this Lease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts of this Lease and changes made to such drafts) may be introduced in any judicial, administrative, or other legal proceeding involving this Lease.

22.12 Attorneys' Fees

If either Landlord or City fails to perform any of its obligations under this Lease or if a dispute arises concerning the meaning or interpretation of any provision of this Lease, the defaulting Party or the non-prevailing Party in such dispute, as the case may be, shall pay the prevailing Party reasonable attorneys' and experts' fees and costs, and all court costs and other costs of action incurred by the prevailing Party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment). For purposes of this Lease, reasonable attorneys' fees of City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. The term "attorneys' fees" shall also include, without limitation, all such fees incurred with respect to appeals, mediations, arbitrations, and bankruptcy proceedings, and whether or not any action is brought with respect to the matter for which such fees were incurred. The term "costs" shall mean the costs and expenses of counsel to the prevailing Party, which may include printing, duplicating, and other expenses, air freight charges, hiring of experts, and fees billed for law clerks, paralegals, and others not admitted to the bar but performing services under the supervision of an attorney.

22.13 Holding Over

Should City hold over in possession of the Premises after the expiration of the Term with Landlord's consent, such holding over shall not be deemed to extend the Term or renew this Lease, but such tenancy thereafter shall continue as a month-to-month tenancy. Such tenancy shall be on all the terms and conditions set forth in this Lease and at the monthly Base Rent in effect during the last month of the Term of this Lease or such other rental as Landlord and City may mutually agree in writing as a condition to Landlord's consent to such holding over, and City shall continue as a month-to-month tenant until the tenancy shall be terminated by Landlord giving City, or City giving Landlord, at least thirty (30) days' prior written notice of termination. Should City hold over without Landlord's consent, the Base Rent payable by City during the period of such holding over shall be one hundred fifty percent (150%) of the monthly Base Rent in effect during the last month of the Term of this Lease, and such tenancy shall otherwise be on the terms and conditions contained in this Lease.

22.14 Cumulative Remedies

All rights and remedies of either Party set forth in this Lease shall be cumulative, except as may otherwise be provided in this Lease.

22.15 Time of Essence

Time is of the essence with respect to all provisions of this Lease in which a definite time for performance is specified.

22.16 Survival of Indemnities

Termination of this Lease shall not affect the right of either Party to enforce any and all indemnities and representations and warranties given or made to the other Party under this Lease, nor shall it affect any provision of this Lease that expressly states it shall survive termination of this Lease. Each Party specifically acknowledges and agrees that, with respect to each of the indemnities contained in this Lease, the indemnitor has an immediate and independent obligation to defend the indemnitees from any claim that actually or potentially falls within the indemnity provision even if such allegation is or may be groundless, fraudulent, or false, which obligation

arises at the time such claim is tendered to the indemnitor by the indemnitee and continues at all times thereafter.

22.17 Signs

City may not erect or post signs on or about the windows or exterior surfaces of any doors or walls of the Premises without first obtaining Landlord's prior written consent, which shall not to be unreasonably withheld or delayed. Notwithstanding the foregoing, Tenant may place on the window tasteful professionally prepared signage indicating the name of the City agency or agencies occupying the Premises. No later than sixty (60) days after the Commencement Date, Landlord shall provide City signage on the Building's directory located in the Building lobby.

22.18 Quiet Enjoyment and Title

Landlord covenants and represents that it has full right, power, and authority to grant the leasehold estate contemplated by this Lease, and covenants that City, upon paying the Rent as required by this Lease and performing the covenants contained in this Lease, shall peaceably and quietly have, hold, and enjoy the Premises and all appurtenances during the full Term of this Lease as against all persons or entities claiming by and through Landlord or on account of any action, inaction, or agreement of Landlord or its Agents. Without limiting the provisions of Section 16.2 (Landlord's Indemnity), Landlord shall Indemnify City and its Agents against Claims arising out of any assertion that would interfere with City's right to quiet enjoyment as provided in this Section.

22.19 Bankruptcy

Landlord represents and warrants to City that Landlord has neither filed nor been the subject of any filing of a petition under the federal bankruptcy law or any federal or state insolvency laws or laws for composition of indebtedness or for the reorganization of debtors, and, to the best of Landlord's knowledge, no such filing is threatened. Landlord and City agree that City's leasehold estate created by this Lease includes all rights to receive and enjoy all services, facilities, and amenities of the Premises and the Building as provided in this Lease, and that if any of such services, facilities, or amenities are terminated, or materially limited or restricted on account of any such case or proceeding, or for any other reason, City shall have the right to **(a)** contract directly with any third-party provider of such services, facilities, or amenities to obtain the same, and **(b)** offset against the Base Rent or any Additional Rent payable under this Lease any and all reasonable costs and expenses incurred by City in obtaining such services, facilities, or amenities.

22.20 Transfer of Landlord's Interest

Landlord may transfer its interest in the Property, the Building, or this Lease to any other person or entity. Upon any such transfer, notice to City of the name and address of Landlord's successor, and delivery to City of an express assumption by the transferee of all of Landlord's obligations under this Lease, Landlord shall be relieved of any obligations accruing under this Lease from and after the date of such transfer.

22.21 Non-Liability of City Officials, Employees, and Agents

Notwithstanding anything to the contrary in this Lease, no elective or appointive board, commission, member, officer, employee, or agent of City shall be personally liable to Landlord or its successors and assigns in the event of any City default or breach under this Lease or for any amount that may become due to Landlord, its successors, or assigns, or for any obligation of City under this Lease.

22.22 MacBride Principles - Northern Ireland

The provisions of San Francisco Administrative Code §12F are incorporated into this Lease by this reference and made part of this Lease. By signing this Lease, Landlord confirms that Landlord has read and understood that City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

22.23 Controller's Certification of Funds

The terms of this Lease shall be governed by and subject to the budgetary and fiscal provisions of City's Charter. Notwithstanding anything to the contrary contained in this Lease, there shall be no obligation for the payment or expenditure of money by City under this Lease unless City's Controller first certifies, pursuant to Section 3.105 of City's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Therefore, if Landlord provides City with a notice of nonpayment of rent pursuant to Section 15.1(a) of this Lease, and City's Controller provides Landlord, within the five (5)-day cure period set forth in said Section 15.1(a), that City has not appropriated funds for Rent, then, as its sole and exclusive remedy, Landlord may terminate this Lease upon twenty (20) days' written notice to Tenant given at any time prior to City's payment of all then due Rents. Without limiting the foregoing, if in any fiscal year of City after the fiscal year in which the Term of this Lease commences, sufficient funds for the payment of Rent and any other payments required under this Lease are not appropriated, then City may terminate this Lease, without penalty, liability, or expense of any kind to City, as of the last date on which sufficient funds are appropriated. City shall use its reasonable efforts to give Landlord reasonable advance notice of such termination.

22.24 Prevailing Wages for Construction Work

Any person performing labor in the construction of "Qualified Improvements" (defined below) to the Premises that Landlord may provide under or in connection with this Lease shall be paid not less than the prevailing rate of wages consistent with the requirements of Section 6.22(E) of the San Francisco Administrative Code, and shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar qualified construction performed in San Francisco County. In any contracts for construction of such qualified improvements to the Premises, Landlord shall include a requirement that all persons performing labor under such contract shall be paid not less than the prevailing rate of wages as required by applicable Laws for the labor so performed. "**Qualified Improvements**" means improvements that cost six hundred thousand dollars (\$600,000) or more (labor and materials collectively).

22.25 Non Discrimination in City Contracts and Benefits Ordinance; Covenant Not to Discriminate

(a) In the performance of this Lease, Landlord shall not discriminate against any employee of Landlord or applicant for employment with Landlord, any City employee working with Landlord, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

(b) Subcontracts

Landlord shall require its contractor to include in all subcontracts relating to the Premises a non-discrimination clause applicable to such subcontractor in substantially the form of subsection (a) above. In addition, each subcontract will be required to incorporate by reference the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code, and each subcontractor shall be required to comply with such provisions. Landlord's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) Non-Discrimination in Benefits

Landlord does not as of the date of this Lease, and will not during the term of this Lease, in any of its operations in San Francisco, on real property owned by City, or where the work is being performed for City by or on behalf of Landlord or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits, or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) CMD Form

As a condition to this Lease, Landlord shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division (the "CMD"). Landlord hereby represents that prior to execution of the Lease: **(a)** Landlord executed and submitted to the CMD Form CMD-12B-101 with supporting documentation, and **(b)** the CMD approved such form.

(e) Incorporation of Administrative Code Provisions by Reference

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of property to City are incorporated in this Section by reference and made a part of this Lease as though fully set forth in this Lease. Landlord shall comply fully with and be bound by all of the provisions that apply to this Lease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Landlord understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty Dollars (\$50) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Landlord and/or deducted from any payments due Landlord.

22.26 Tropical Hardwood and Virgin Redwood Ban

(a) Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, neither Landlord nor any of its contractors shall provide any items to City in the construction of any improvements or repairs to the Premises or otherwise in the performance of this Lease that are tropical hardwood, tropical hardwood wood products, virgin redwood, or virgin redwood wood products.

(b) City urges companies not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood products.

(c) If Landlord fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Landlord shall be liable for liquidated damages for each violation in an amount equal to Landlord's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greatest. Landlord acknowledges and agrees that the liquidated damages assessed shall be payable to City upon demand and may be set off against any monies due to Landlord from any contract with City.

22.27 Bicycle Parking Facilities

Article 1.5, Section 155.3, of the San Francisco Planning Code (the "**Planning Code**") requires the provision of bicycle parking at City-leased buildings at no cost to Landlord. During the Term, City shall have the right to install and maintain, at its sole cost, all Class 1 Bicycle Parking Spaces (as defined in the Planning Code) and all Class 2 Bicycle Parking Spaces (as defined in the Planning Code) in locations approved by Landlord and as otherwise required by applicable Laws.

22.28 Resource-Efficient City Buildings and Pilot Projects

Landlord acknowledges that City has enacted San Francisco Environment Code Sections 700 to 713 relating to green building requirements for the design, construction, and operation of City buildings. Landlord hereby agrees that it shall comply with all applicable provisions of such code sections with respect to new construction on or about the Premises.

22.29 Counterparts

This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

22.30 Effective Date

The date on which this Lease shall become effective (the "**Effective Date**") is the date upon which: (a) City's Mayor and Board of Supervisors, at their sole and absolute discretion, adopt a resolution or enact an ordinance approving this Lease in accordance with all applicable Laws and (b) this Lease is duly executed by the Parties.

22.31 Certification by Landlord

By executing this Lease, Landlord certifies that, to Landlord's actual knowledge, neither Landlord nor any of its officers or members have been suspended, disciplined, or disbarred by, or prohibited from contracting with, any federal, state, or local governmental agency. If Landlord learns that it or any of its officers or members have been so suspended, disbarred, disciplined, or prohibited from contracting with any governmental agency, it shall immediately notify City of same and the reasons therefor together with any relevant facts or information requested by City. Any such suspension, disbarment, discipline, or prohibition may result in the termination or suspension of this Lease. Landlord acknowledges that this certification is a material term of this Lease.

22.32 Sunshine Ordinance

In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records

of communications between City and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement, or other benefit until and unless that person or organization is awarded the contract, lease, agreement, or benefit. Information provided which is covered by this Section will be made available to the public upon request.

22.33 Conflicts of Interest

Through its execution of this Lease, Landlord acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that, to its actual knowledge, Landlord does not know of any facts that would constitute a violation of said provisions, and agrees that if Landlord becomes aware of any such fact during the Term of this Lease, Landlord shall immediately notify City.

22.34 Notification of Limitations on Contributions

Through its execution of this Lease, Landlord acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with City for the selling or leasing of any land or building to or from City whenever such transaction would require approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Landlord acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Landlord further acknowledges that the prohibition on contributions applies to each Landlord; each member of Landlord's board of directors, and Landlord's chief executive officer, chief financial officer, and chief operating officer; any person with an ownership interest of more than 20 percent in Landlord; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Landlord. Additionally, Landlord acknowledges that Landlord must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Landlord shall provide to City the name of each person, entity, or committee described above.

22.35 Preservative-Treated Wood Containing Arsenic

As of July 1, 2003, Landlord may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of San Francisco Environment Code, Chapter 13 is obtained from City's Department of Environment under Section 1304 of the San Francisco Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Landlord may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by City's Department of Environment. This provision does not preclude Landlord from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

22.36 Cooperative Drafting

This Lease has been drafted through a cooperative effort of both Parties, and both Parties have had an opportunity to have the Lease reviewed and revised by legal counsel. No Party shall be considered the drafter of this Lease, and no presumption or rule that an ambiguity shall be construed against the Party drafting the clause shall apply to the interpretation or enforcement of this Lease.


NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, LANDLORD ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS LEASE UNLESS AND UNTIL CITY'S BOARD OF SUPERVISORS SHALL HAVE DULY ADOPTED A RESOLUTION OR ENACTED AN ORDINANCE APPROVING THIS LEASE AND AUTHORIZING CONSUMMATION OF THE TRANSACTION CONTEMPLATED BY THIS LEASE. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY UNDER THIS LEASE ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS LEASE SHALL BE NULL AND VOID UNLESS CITY'S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS LEASE, AT THEIR RESPECTIVE SOLE AND ABSOLUTE DISCRETION, AND IN ACCORDANCE WITH ALL APPLICABLE LAWS. APPROVAL OF THIS LEASE BY ANY DEPARTMENT, COMMISSION, OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ADOPTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS OF CITY.

[Signatures on following page]

Landlord and City have executed this Lease as of the date first written above.

LANDLORD:

OPERA PLAZA, L.P.
a California Limited Partnership

By:  _____

Its: managing partner _____

By: _____


Its: _____

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
JOHN UPDIKE
Director of Property

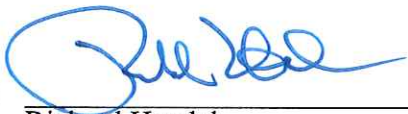
RECOMMENDED:



Human Services Agency

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: 

Richard Handel,
Deputy City Attorney

EXHIBIT A
FLOOR PLAN(S)



601 Van Ness Avenue, Suite P

EXHIBIT B

NOTICE OF COMMENCEMENT DATE

[Date]

Mr. John Updike
Director of Property
Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102

RE: Acknowledgement of Commencement Date, Lease between OPERA PLAZA, L.P., a California limited partnership (“**Landlord**”), and the CITY AND COUNTY OF SAN FRANCISCO, a California municipal corporation (“**City**”), for premises known as Suite P located at 601 Van Ness Avenue, Suite P San Francisco, CA 94102.

Dear Mr. Updike:

This letter will confirm that for all purposes of the Lease, the Commencement Date (as defined in Section 3.2 of the Lease) is _____, 2016.

Please acknowledge your acceptance of this letter by signing and returning a copy of this letter.

Very truly yours,

By: _____
Title: _____

Accepted and Agreed:

By: _____
John Updike
Director of Property

Dated: _____, 2016

EXHIBIT C

EXCLUSIONS FROM OPERATING COSTS

1. Costs of new capital improvements or equipment (as opposed to repairs or replacements that are capitalizable), except for those (a) required by laws enacted on or after the date of the Lease amortized over the useful life of the improvement and/or equipment together with interest at the actual interest rate incurred by Landlord in connection with such capital improvements, or (b) acquired to cause, in Landlord's good faith judgment, an immediate (i.e., commencing within the first year after completion of such repairs or improvements or installation of such equipment) reduction in other Operating Costs, amortized over five (5) years at an annual rate reasonably calculated to equal the amount of Operating Costs to be saved in each calendar year throughout the Term (as determined at the time Landlord elected to proceed with the capital improvement or acquisition of the capital equipment to reduce operating expenses), together with interest at the actual interest rate incurred by Landlord;
2. Rentals and other related expenses for items (except when needed in connection with normal replacements, repairs, and maintenance of permanent systems) which if purchased rather than rented, would constitute a capital improvement which is specifically excluded in item 1 above (excluding, however, equipment not affixed to the Building which is used in providing janitorial or similar services);
3. Costs incurred by Landlord for the repair of damage to the Building, to the extent that Landlord is reimbursed by insurance proceeds and costs occasioned by the exercise of the right of eminent domain;
4. Costs, including, without limitation, permit, license, and inspection costs, incurred with respect to the installation of improvements made for other tenants or occupants of the Building or incurred in renovating or otherwise improving, decorating, painting, or redecorating vacant space for other tenants or occupants in the Building;
5. Depreciation, amortization, and interest payments, except to the extent provided pursuant to items 1(i) and 1(ii) above and except on materials, tools, supplies, and vendor-type equipment purchased by Landlord to enable Landlord to supply services Landlord might otherwise contract for with a third party where such depreciation, amortization, and interest payments would otherwise have been included in the charge for such third party's services, all as determined in accordance with generally accepted accounting principles, consistently applied (as applied to commercial real estate), and when depreciation or amortization is permitted or required, the item shall be amortized over its reasonably anticipated useful life (as reasonably determined by Landlord);
6. Leasing commissions, attorneys' and other professionals' fees, space planning costs, and all other costs and expenses in connection with negotiations with present or prospective tenants or other occupants in the Building or any present or future ground lessors or holders of any mortgages or other encumbrances affecting any of the Building or the defense of Landlord's title to the Building or the real property on which it is located;
7. Expenses in connection with services or other benefits that are not offered to City or for which City is charged directly but which are provided to another tenant or occupant of the Building;
8. Costs incurred by Landlord resulting from violation by Landlord or any other tenant or occupant of the Building of applicable laws, rules, or regulations, the terms and conditions of any lease, ground lease, mortgage, or deed of trust, or other covenants, conditions, or restrictions encumbering the Building or the real property on which it is located;

- 9.** Overhead and profit increments paid to Landlord or to subsidiaries or affiliates of Landlord, or to any party as a result of a non-competitive selection process, for management, or other services, supplies, or materials, to the extent the same exceed the costs of such goods and/or services rendered by unaffiliated third parties on a competitive, arms-length basis;
- 10.** Any ground lease rental or rental under any other underlying leases;
- 11.** Except as specifically permitted by items 1(i) and 1(ii) above, interest, principal, points, and fees on debts or amortization on any mortgage, deed of trust, or any other debt instrument encumbering any of the Building or the real property on which it is located;
- 12.** Any compensation paid to clerks, attendants, or other persons in commercial concessions operated by Landlord or in the parking garage in the Building;
- 13.** All items and services for which City or any other tenant or occupant of the Building separately reimburses Landlord (other than through such tenant's or occupant's proportionate share of operating expenses), or that Landlord provides selectively to one or more other tenants or occupants without reimbursement, or that are not provided in reasonable proportion to the space leased by City but that Landlord provides to another tenant or other occupant of the Building;
- 14.** Advertising or promotional expenditures, and the costs of acquiring and installing signs in or on any of the Building identifying the owner of the Building or any other tenant or occupant of the Building;
- 15.** Electric power costs for which any tenant or occupant directly contracts with the local public service company (provided that the charge for such services shall be computed for purposes of the gross-up provision of the Lease (i.e., expenses to be grossed up to reflect full occupancy of the Building) to reflect an average charge for power costs);
- 16.** Services provided to or for, taxes attributable to, and costs incurred in connection with the operation of retail, restaurant and garage operations in the Building;
- 17.** Costs incurred in connection with upgrading the Building to comply with disabled access, life, fire and safety codes in effect prior to the date of the Lease, and costs incurred in connection with upgrading the Building to comply with the Americans with Disabilities Act of 1990 and Title 24 of the California Code of Regulations (or its successor), the San Francisco Sprinkler Ordinance and the San Francisco Unreinforced Masonry Building Ordinance;
- 18.** Tax penalties incurred as a result of Landlord's negligence, inability, or unwillingness to make payments when due;
- 19.** Costs arising from the presence of Hazardous Material in or about the Building including groundwater or soil conditions, except if such Hazardous Material is brought onto the Building by City in violation of applicable laws;
- 20.** Landlord's charitable or political contributions;
- 21.** To the extent the following costs arise during any applicable warranty periods, costs as a result of repairs of latent defects in the Building core and shell or improvements installed by Landlord or in the Building Systems, and any costs incurred by Landlord in the event any portion of the Building is made untenable by fire or other casualty required to be insured against pursuant to the terms of the Lease;
- 22.** Capital costs for sculpture, paintings, or other objects of art;

- 23.** Costs (including all attorneys' fees and costs of settlement, judgments, and payments in lieu thereof) arising from claims, disputes, or potential disputes, including tax disputes where the tenants of the Building would receive benefits if Landlord prevails) in connection with potential or actual claims, litigation or arbitrations pertaining to Landlord or the Building;
- 24.** All direct cost of refinancing, selling, exchanging, or otherwise transferring ownership of the Building or the real property on which it is located or any interest therein or portion thereof, including broker commissions, attorney's fees, and closing costs;
- 25.** Reserves for bad debts, rent loss, capital items, or further Operating Costs; and
- 26.** Landlord's general corporate overhead and general and administrative expenses not related to the operation or management of the Building.

EXHIBIT D

STANDARDS FOR UTILITIES AND SERVICES

Landlord shall provide the following utilities and services, at cost:

(a) Elevators. Unattended automatic passenger elevator facilities serving the floor(s) on which the Premises are located, on a 24-hours a day, 7-days a week basis. Freight elevator service is available Monday through Friday, from 8a.m. to 5 p.m.

(b) Ventilation; Heating and Air-Conditioning. Ventilation to the Premises, and air-conditioning and heating to the Premises in season, on a 5-day a week basis, Monday through Friday except holidays generally recognized in the City of San Francisco, 24 hours per day, and at such temperatures and in such amounts as customary in San Francisco for similar office premises, subject to applicable governmental laws, ordinances, rules and regulations. In addition to the hours set forth above, Landlord shall provide ventilation to the Premises, and air-conditioning and heating to the Premises in season, after hours or on weekends or during holidays, upon twenty-four (24) hour notice from City, provided that City shall reimburse Landlord for Landlord's actual cost for providing such additional ventilation to the Premises, and air-conditioning and heating to the Premises. City shall not alter, adjust or tamper with the installations or facilities supplying climate control to the Building or the Premises.

(c) Electricity. Subject to City's obligations pursuant to Section 9.2 of the Lease, electric current to the Premises on a 24-hours a day, 7-days a week basis, in capacities as currently available. At all times, City's use of electric current shall not exceed the capacity of feeders to the Premises or the risers or wiring installation with respect to the Premises.

(d) Water. Hot and cold water shall be available at current points of supply on a 24-hours-a-day, 7-days-a-week basis.

EXHIBIT E

STANDARDS FOR JANITORIAL SERVICES

Trash removal and vacuuming nightly, Monday through Friday, except holidays.

EXHIBIT F

STANDARDS FOR SECURITY SERVICE

Landlord shall furnish security services as follows:

SECURITY GUARDS: 2 unarmed security guards at all times

OTHER SECURITY SERVICES: none