

MASTER LEASE

between

PACIFIC BAY INN, INC.,
as Owner/Landlord

and

CITY AND COUNTY OF SAN FRANCISCO,
on behalf of the Department of Public Health,
as Tenant

For the lease of

Pacific Bay Inn
520 Jones Street
San Francisco, California 94102

April 8, 2009

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EXHIBIT A - Landlord's Work

EXHIBIT B – Form of Commencement Date Confirmation

EXHIBIT C - Dispute Resolution Procedures

MASTER LEASE

April 8 THIS MASTER LEASE (this "Lease"), dated for reference purposes only as of *April 8*, 2009, is by and between PACIFIC BAY INN, INC., a California corporation, as Owner ("Landlord"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, on behalf of the Department of Public Health, as tenant ("City" or "Tenant"). A contractor to City (the "Prior Tenant") previously leased the Premises described below under a lease that expired on April 30, 2009 (the "Prior Lease"). Definitions and the locations of defined terms used in this Lease are set forth in Section 23.40 (Definitions).

1. BASIC LEASE INFORMATION

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

Lease Reference Date:	<i>April 8</i> , 2009
Landlord:	Pacific Bay Inn, Inc.
Tenant:	City and County of San Francisco, on behalf of the Department of Public Health
Premises (Section 2.1):	84 units (75 in residential use; 9 converted during prior tenancy to tenant-serving uses), office space, storage space, and basement, but excluding the commercial spaces [known as 522 Jones Street (restaurant) and 498 O'Farrell Street (market)], located in the building known as: Pacific Bay Inn 520 Jones Street San Francisco, California 94102
Term (Section 3.1):	10 years
Commencement Date:	May 1, 2009
Prior Lease:	January 25, 1999 – April 30, 2009
Extension Options (Section 3.2):	2 additional terms of 10 years each, exercisable by Tenant by notice to Landlord given not less than 120 days in advance, with Rent adjusted under Section 4.3.
Rent (Section 4.1(a)):	Annual Rent: \$554,400, subject to adjustment under Sections 4.1(b) and 4.2. Monthly payments: \$46,200 (\$550 per month per unit x 84 units), subject to adjustment under Sections 4.1(b) and 4.2.

Rent Allowance (Section 4.1(b)):

Tenant may deduct an amount equal to 3/84 of the average monthly water bill for the 12 months before the Commencement Date from each month's Rent payment, to compensate for water usage by other tenants of the building in the restroom in the lobby and the commercial spaces, subject to annual adjustment under Section 4.1(b).

Permitted Use (Section 5.1):

Residential dwellings for individual households, together with services generally associated with the use; including general administrative services.

Utilities (Section 9.1):

Tenant will be responsible for all utilities serving the Premises, excluding any utilities serving the commercial space in the building.

Services (Section 9.2):

Tenant will be responsible for janitorial services.

Notice Address for Landlord (Section 23.1):

Pacific Bay Inn, Inc.
c/o Adam Sparks
Pacific Bay Investments
825 Van Ness Avenue, Suite 301
San Francisco, CA 94109

with a copy to:

Lauren Hall, Director
DISH
232 Eddy Street
San Francisco, CA 94102
Phone No.: (415) 776-3474 x 101
Fax No. (415) 776-3474

Key Contact for Landlord:

Adam Sparks
Pacific Bay Inn, Inc.
825 Van Ness Avenue, Suite 301
San Francisco, CA 94109
Phone No.: (415) 776-1170
Fax No. (415) 776-1169

Notice Address for Tenant (Section 23.1):

Real Estate Department
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Amy Brown, Director of Property
Fax No.: (415) 554-9216

with a copy to:

Department of Public Health
City and County of San Francisco
101 Grove Street
San Francisco, CA 94102
Attn: Marc Trotz
Fax No.: (415) 554-2658

and to:

Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Fax No.: (415) 554-4755

Key Contact for Tenant:

Lauren Hall, Director
DISH
232 Eddy Street
San Francisco, CA 94102
Phone No.: (415) 776-3474 x 101
Fax No. (415) 776-3474

2. PREMISES

Landlord leases to Tenant and Tenant leases from Landlord, subject to the provisions of this Lease, the premises located in the building identified in the Basic Lease Information (the "Premises"). The Premises do not include the retail commercial space on the ground floor.

3. TERM

3.1. Term of Lease. The Premises are leased for a 10-year initial term (the "Term") commencing on the "Commencement Date" and terminating on the "Expiration Date" stated in the Basic Lease Information, provided that the actual Commencement Date may be delayed unless all of the following have occurred: (a) Landlord has agreed to perform Landlord's Work described and according to the schedule in **Exhibit A**, in accordance with **Section 7.1** (Landlord's Work), and has delivered the Premises to Tenant; (b) Tenant has agreed to the scope of work and schedule in **Exhibit A**, and accepted the Premises; and (c) the Board of Supervisors (the "Board") and the Mayor of the City and County of San Francisco, respectively, have approved this Lease, in their respective sole and absolute discretion. If the Commencement Date is delayed due to the Board's meeting schedule and procedures, then Landlord and Tenant will confirm the actual Commencement Date by a letter substantially in the form of **Exhibit B**, but their failure to do so will not affect the actual Commencement Date or the Expiration Date, provided that Tenant pays monthly Rent as required under this Lease when due.

3.2. Extension Options. Tenant will have the right to extend the initial Term of this Lease (the "Extension Options") for 2 additional successive 10 year terms (each, an "Extended Term"). The terms and conditions of this Lease will apply during the Extension Options, except that Rent will be adjusted as provided in **Section 4.3** (Rent During the Extended Terms). Tenant may exercise the Extension Option by giving notice to Landlord no later than 120 days before expiration of the initial Term or first Extended Term, as applicable (the "Option Notice"), provided that, if a Tenant Event of Default has occurred and Tenant fails to cure the Tenant Event of Default before the Expiration Date, Landlord may reject Tenant's exercise by delivering a notice of rejection to Tenant stating the grounds for rejection. Landlord acknowledges and agrees that the Option Notice will be subject to approval by the Board and the Mayor, in their respective sole and absolute discretion, within 60 days after Rent is determined under **Section 4.3** (Rent during the Extended Term). If Tenant extends the Term under this Section, the terms "Term" and "Expiration Date" will mean the Extended Term and either the 10th or 20th anniversary of the Expiration Date stated in the Basic Lease Information, as applicable.

3.3. Termination. In addition to other termination rights specifically provided in this Lease, Tenant will have the right to terminate this Lease for any reason upon no less than 270 days' prior notice to Landlord (a "Termination Notice"). This Lease will terminate as of the date indicated in Tenant's Termination Notice, which must be at least 270 days after Tenant's delivery of the Termination Notice. The parties' rights and obligations under this Lease will

terminate as of the date specified in the Termination Notice, except as otherwise expressly provided in this Lease. Tenant agrees to comply with **Article 19 (Surrender of Premises)** if Tenant exercises its right to terminate under this Section.

4. RENT

4.1. Rent.

(a) Subject to **Sections 6.1 (Condition of the Premises)** and **7.1 (Landlord's Work)**, Tenant will pay to Landlord during the Term annual Rent specified in the Basic Lease Information ("**Rent**") beginning on the Commencement Date. Rent will be payable in equal consecutive monthly payments on or before the 5th day of each month, in advance, at the address specified for Landlord in the Basic Lease Information, or any other place that Landlord designates in writing upon not less than 30 days' prior notice. Tenant will pay 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 1st 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 Rent for the fractional month will be prorated based on a 30-day month.

(b) The parties acknowledge and agree that: (i) commercial tenants in the building use water that is not metered separately from Tenant's water usage; and (ii) rather than installing separate meters for those uses, Tenant will be allowed to deduct from its monthly Rent payment an amount equal to 3/84 of the average monthly water bill for the 12 months preceding the Commencement Date during the first Lease Year, with a similar adjustment beginning on the first month in each subsequent Lease Year, based the average monthly water bill during the Lease Year that has just ended. Tenant's right to this allowance will end if and when these non-Premises uses are separately metered.

4.2. Rent for Second and Subsequent Years During the Initial and Each Extended Term. On the first anniversary of the Commencement Date, and on each subsequent anniversary of the Commencement Date during the initial Term, Rent for the new Lease Year will be adjusted by multiplying Rent during the previous Lease Year by the Adjustment Percentage; provided that in no event will the Adjustment Percentage for any Lease Year be less than 2% or more than 6%. Rent will be adjusted in the same manner during the 2nd through 10th years of each Extended Term, subject to Tenant's allowance under **Section 4.1(b) (Rent)**.

4.3. Rent During the Extended Terms. Rent will be adjusted at the beginning of any Extended Term to Fair Market Rent, but in no event will the adjusted Rent be less than 102% of Rent during the prior Lease Year, subject to Tenant's allowance under **Section 4.1(b) (Rent)**. All calculations will be based on a calendar year of 12 months and a unit count of 84.

(a) Fair Market Rent will be calculated using 51% of the monthly allowance for a zero bedroom (efficiency) rental unit in the most recently published Governmental Rent Index.

(b) The following will apply only if the Governmental Rent Index is no longer published. Fair Market Rent at the beginning of any Extended Term will be the greater of 102% of the Rent for the Premises on the last day of the initial Term or the first Extended Term, as applicable, or Fair Market Rent established according to the following procedures. In no event will the adjusted Rent be less than 102% of Rent in the immediately preceding Lease Year.

(i) Within 30 days after Landlord's receipt of Tenant's Option Notice, Landlord must provide notice to Tenant of Landlord's determination of prevailing market rate for the Premises, along with reasonable substantiation for its determination, including, at least 3 recent comparable lease transactions.

(ii) If Tenant disputes Landlord's determination of the prevailing market rate, Tenant will notify Landlord of Tenant's determination of prevailing market rate and

reasonable substantiation for its determination within 14 days following Landlord's notice to Tenant. If Tenant and Landlord still disagree:

(iii) Within 30 days following Tenant's notice of the prevailing market rate, Landlord and Tenant must meet no less than twice, at mutually agreeable times and places, to attempt in good faith to resolve the disagreement.

(iv) If within this 30-day period Landlord and Tenant cannot reach agreement as to the prevailing market rate, they will each select one appraiser.

(v) The two appraisers will immediately select a third appraiser who is willing for a fee not to exceed \$5,000, in written notice to the parties, and within 10 days of his or her selection, choose either Landlord's and Tenant's determination of the prevailing market rate and provide the reasoning for the choice.

(vi) Each appraiser specified above: (1) must be certified as an MAI appraiser and have at least 5 years' experience within the previous 10 years as a real estate appraiser working in the area in San Francisco in which the Premises are located, with working knowledge of current rental rates and practices; and (2) may not have acted in any capacity for either party for at least the 2 prior years. Each party will pay for its own appraiser. Landlord will pay the reasonable costs, if any, of the third appraiser, and Tenant will reimburse Landlord ½ the actual and reasonable costs.

(vii) If City's Director of Property does not believe the Board or the Mayor will approve, or if the Board or the Mayor does not approve, of the prevailing market rate as determined by the appraisal procedure specified above, the Director of Property may revoke Tenant's Option Notice.

4.4. Payment of Real Estate Taxes. During the Term, Landlord will be solely responsible for the Real Estate Taxes for the Premises, other than those taxes attributable or due to Tenant's use and operation of the Premises as described in **Section 4.5** (Payment of Other Taxes).

4.5. Payment of Other Taxes. During the Term, Tenant is solely responsible for the payment of all taxes, fees and charges attributable or due to Tenant's use and operation of Premises imposed by the United States of America, the State of California or any political subdivision thereof, or the City and County of San Francisco, including City's business license fees and renewal fees, transient taxes and other similar taxes, fees and charges, but only to the extent attributable to Tenant's use and operation of the Premises. In addition, Tenant is responsible for payment of all personal property taxes attributable to Tenant's Property, and any privilege tax, excise tax, gross receipts tax and commercial rent tax. If Tenant fails to pay any amounts due under this Section within 30 days after they are due, then Landlord may pay those amounts on Tenant's behalf. Tenant will reimburse Landlord for the amounts paid with the next monthly payment of Rent due after the payment made by Landlord.

4.6. Late Charges. Tenant acknowledges that late payment by Tenant to Landlord of Rent or other sums due under this Lease will cause Landlord to incur costs not contemplated by Rent payable under this Lease, the exact amount of which may be difficult to ascertain. Landlord's costs may include processing and accounting charges, and late charges which may be imposed upon Landlord by terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of Rent or any sum due from Tenant is not received by Landlord or Landlord's designee within 15 business days after notice from Landlord to Tenant that the sum has not been paid as and when due, then Tenant must pay to Landlord a late charge equal to 10% of the overdue amount. Landlord's acceptance of late charges will not constitute a waiver of Tenant's default with respect to the overdue amount or prevent Landlord from exercising any of its other rights and remedies.

5. USE

5.1. **Permitted Use.** Tenant may use the Premises for the Permitted Use specified in the Basic Lease Information, and for no other use without Landlord's prior written consent, which will not be unreasonably withheld or delayed.

5.2. **Manner of Use.** Tenant will not cause or permit the Premises to be used in any way that constitutes a violation of any Laws or that constitutes a nuisance or waste.

5.3. **Tenant's Property Manager.** Landlord acknowledges that Tenant's property manager is identified as Tenant's key contact and will act as Tenant's representative in communications with Landlord regarding Tenant's operations at the Premises.

6. DELIVERY AND ACCEPTANCE OF PREMISES

6.1. **Condition of the Premises.** Landlord and Tenant have agreed to a list of items attached as **Exhibit A** that Landlord will repair or replace in accordance with **Article 7** (Alterations) ("**Landlord's Work**").

6.2. **Acceptance of the Premises.** Subject to **Sections 6.1** (Condition of the Premises) and **7.1** (Landlord's Work), Tenant accepts the Premises in their existing physical condition and subject to all recorded matters and Laws.

7. ALTERATIONS

7.1. **Landlord's Work.**

(a) Landlord must complete Landlord's Work, using licensed and bonded contractors and subcontractors, in compliance with all applicable Laws at Landlord's sole cost by the dates set forth in **Exhibit A**, subject to reasonable delays caused by any Force Majeure Event.

(b) Promptly following the execution of this Lease, Landlord will cause an architect to prepare plans, specifications and working drawings ("**Construction Documents**") for portions of Landlord's Work requiring Construction Documents to obtain required permits. Landlord must submit the Construction Documents to Tenant for its approval, which will not be unreasonably withheld or delayed. If Tenant disapproves the Construction Documents, then Tenant will notify Landlord promptly of the revisions that Tenant reasonably requires in order to obtain Tenant's approval. If the parties have not agreed upon the Construction Documents within 30 days following the execution of this Lease, then either party may terminate this Lease by providing written notice of termination to the other party. The parties agree that all costs incurred in this transaction will be borne by the respective parties incurring the cost should termination under this Subsection occur.

(c) Landlord will secure and pay for any building and other permits and approvals, fees, and inspections necessary for the proper performance and completion of Landlord's Work. If Landlord, after using its best efforts, is unable to obtain necessary permits, approvals and licenses required for any item of Landlord's Work in time to complete the item according to the agreed schedule, Tenant will have the right to terminate this Lease upon written notice to Landlord. Landlord will be responsible for arranging for all inspections required by City's Department of Building Inspection.

(d) Immediately upon Landlord's procurement of all necessary permits and approvals, Landlord will commence and cause Landlord's Work to be completed in compliance with all applicable Laws and in a good and professional manner in accordance with sound building practice. Landlord must comply with and give notices required by all applicable Laws.

(e) If Landlord demonstrates through bids obtained from 3 or more licensed contractors that the cost of any item of Landlord's Work exceeds \$50,000, then, at Landlord's request, Landlord and Tenant will agree on an extended schedule for the completion of specified item of Landlord's Work, which may not include any item of Landlord's Work that in Tenant's sole judgment affects life safety or disabled access.

(f) If Landlord fails to complete any item of Landlord's Work on the agreed schedule, as it may be extended, due to a Force Majeure Event, Tenant agrees to meet and confer with Landlord to determine a reasonable final extension of the schedule. If Landlord fails to complete Landlord's Work after this final extension, then, following 10 days' notice, Tenant may complete the item of Landlord's Work and apply the cost incurred, plus 10%, toward Tenant's next successive monthly Rent obligations until the sum is fully applied.

(g) Landlord must keep Tenant apprised on a regular basis of the progress of construction. Landlord must notify Tenant of the approximate date on which Landlord's Work will be substantially completed. Landlord may revise the notice as appropriate from time to time and must immediately notify Tenant when Landlord's Work is in fact substantially completed. On the date or other mutually agreeable date as soon as practicable thereafter, Tenant and its authorized representatives will have the right to accompany Landlord or its architect on an inspection of Landlord's Work.

(h) Landlord's Work will be deemed to be "**substantially complete**" when Landlord's Work has been sufficiently completed in accordance with the approved Construction Documents so that the items being replaced or repaired may be used fully for their intended purposes. Tenant may accept part of Landlord's Work as substantially complete while Landlord completes other portions of Landlord's Work as provided in **Subsection (e)**. Tenant will have the right to present to Landlord within 30 days after acceptance of any portion of Landlord's Work, or as soon thereafter as practicable, a written punch list consisting of any items that have not been finished in accordance with the Construction Documents or **Exhibit A**. Landlord must complete all defective or incomplete items identified in the punch list promptly, in any event within 30 days after Tenant's delivery of the punch list. Tenant's failure to include any item on the punch list will not alter Landlord's responsibility to complete all Landlord's Work in accordance with the approved Construction Documents and **Exhibit A**, or constitute any waiver of any latent defects.

(i) City's approval of the Construction Documents or acceptance of the Landlord's Work will not constitute approval of any other governmental or regulatory authority with jurisdiction over the Premises, or limit Landlord's obligation to obtain all approvals.

7.2. Alterations by Tenant.

(a) During the Term, without Landlord's prior written consent, Tenant may not: (i) make or permit any Alterations to the Premises that cost more than \$15,000 per Alteration; (ii) remove or move any wall; or (iii) reduce the lawful room count in the Premises. Landlord agrees not to withhold or delay its consent to any such action unreasonably, and agrees that the installation of FF&E or decorative improvements that do not affect the structural integrity of the Premises, and repainting and re-carpeting the Premises are not Alterations requiring Landlord's consent. Any Alterations will be made at Tenant's cost in compliance with applicable Laws. Landlord must cooperate with Tenant in securing building and other permits and authorizations needed in connection with any Alterations. Tenant agrees to provide Landlord with copies of any permits and authorizations within 10 days of Landlord's written request to Tenant. Landlord will not be entitled to any construction or other administrative fee in connection with any Alteration.

(b) Landlord and Tenant acknowledge that, with Landlord's consent during the term of the Prior Lease, Tenant reduced the number of lawful residence rooms from 84 to 75. Tenant agrees that Landlord will have the right to demand that Tenant restore the rooms to their original configuration at Tenant's sole expense by written notice given no more than 30 days after the Expiration Date, the earlier termination of this Lease, or the revocation of Tenant's Option Notice under **Section 4.3(b)(vii)** (Rent During the Extended Terms). Tenant must complete the room restoration within 6 months after the date of Landlord's notice. Landlord agrees that Tenant will have the right to hold over in possession of the portions of the Premises

reasonably necessary for this purpose without paying Rent for a period not to exceed 6 months from the date of Landlord's notice.

(c) Except as provided in **Subsection (b)**, Tenant will not be required to remove any Alterations upon the expiration or sooner termination of this Lease unless Landlord notifies Tenant in writing at the time Landlord approves the Alterations that they must be removed. To the extent that individuals or entities performing any Alterations to the Premises are not covered by City's self-insurance, as described in **Section 16.1** (City's Self-Insurance), Tenant will require that these individuals or entities obtain and maintain commercially customary and reasonable insurance naming Landlord and its lender(s) (as identified by Landlord) as additional insureds. Tenant will provide Landlord upon request with copies of final permits and authorizations, plans and specifications and as-built drawings, if any, for the Alterations, and proof of either Tenant's financial responsibility for the Alterations or payment made to third parties for the Alterations.

7.3. Tenant's Property.

(a) All FF&E, trade fixtures and articles of movable personal property installed in the Premises, such as beds and metal storage units, by or for the account of Tenant and that can be removed without structural or other substantial damage to the Premises will be and remain Tenant's property (collectively, "**Tenant's Property**"). Tenant's Property does not include: (i) items affixed to the walls, floors, or ceiling by means of bolts, screws, piping, or other hardware; (ii) window coverings; (iii) wall lamps; or (iv) FF&E remaining at the Premises that was installed by or for the account of Landlord before the Prior Lease began.

(b) At any time during or at the expiration of the Term, Tenant may remove any of Tenant's Property provided Tenant will repair any damage to the Premises resulting from removal. Upon the expiration or earlier termination of this Lease, Tenant will remove Tenant's Property from the Premises in accordance with **Article 19** (Surrender of Premises). Landlord acknowledges that some of Tenant's Property may be financed by an equipment lease financing otherwise subjected to a security interest, or owned by an equipment company and leased to Tenant. Landlord, upon Tenant's reasonable request, will execute and deliver any document reasonably required by any supplier, lessor, or lender in connection with the installation in the Premises of any items of Tenant's Property, under which Landlord waives any rights it may have or acquire with respect to Tenant's Property, so long as the supplier, equipment lessor, or lender agrees that it will: (i) remove Tenant's Property from the Premises on or before the Expiration Date (but if it does not remove Tenant's Property within that time it will have waived any rights it may have had to Tenant's Property); and (ii) repair any damage caused by the removal of Tenant's Property. Landlord will recognize the rights of a supplier, lessor, or lender who has an interest in any items of Tenant's Property to enter the Premises and remove Tenant's Property at any time during or at expiration of the Term. Nothing in this Section will require Landlord to subordinate its interest in the Premises.

7.4. Alteration by Landlord. Landlord will use its commercially reasonable efforts to minimize interference with or disruption to Tenant's use and occupancy of the Premises during any alterations, installations, additions, or improvements to the Premises. Landlord must remedy, to the extent commercially reasonable, any interference or disruption promptly upon receiving Tenant's notice.

7.5. Title to Improvements. Except for Tenant's Property, all appurtenances, fixtures, improvements, equipment, additions, and other property permanently installed in the Premises as of the Commencement Date or during the Term will be and remain Landlord's property. Tenant may not remove Landlord's property, except to replace it as allowed under **Section 7.2** (Alterations by Tenant), without Landlord's consent.

8. REPAIRS AND MAINTENANCE

8.1. Allocated Costs. Responsibility for Landlord's and Tenant's respective maintenance and repair obligations within the building in which the Premises are located are delegated according to the following categories.

(a) "**Building Systems**" consist of: (i) the foundation, including all points of access to the foundation; (ii) the roof, including all points of access to the roof; (iii) trusses and support system, structural walls, all exterior walls and surfaces; (iv) main electric lines, sewer and water lines, and gas pipes up to the point of connection to meters (i.e., to the utility delivery system); and (v) window and door frames, but not window panes or doors to units in the Premises.

(b) "**Major Systems**" consist of: (i) the elevator; (ii) the heating system consisting of the boiler and pipes from the boiler to the walls, but not pipes inside the interior of the Premises or the heating element covers and thermostats in the units; (iii) plumbing (excluding main sewer and water lines up to the point of connection to meters and plumbing lines and fixtures within any room, office or common area); (iv) electrical system (excluding main electric lines up to the point of connection to meters and electrical lines and fixtures within any room, office or common area); and (v) fire safety/sprinkler system. The parties acknowledge that the Premises do not contain a communications system and that any exclusions specified in this Subsection will not be included in determining whether the Major Systems Threshold has been met.

(c) "**Non-Major Repairs**" consist of: (i) routine maintenance (including maintenance contracts and inspections, replacement of furniture and carpet, fixtures, interior painting, and damage to the Premises due to vandalism) and repair of: (1) all systems and facilities in the Premises, excluding Building Systems and Major Systems; (2) all Alterations installed in the Premises by or on Tenant's behalf, such as the security system; and (3) all Alterations moved or installed in the Premises by the Prior Tenant during the Prior Lease; (ii) maintenance and repair of Major Systems where the cost to repair or replace for the occurrence is less than \$1,000; and (iii) maintenance and repair of Major Systems in an aggregate cost up to the Major Systems Threshold.

8.2. Landlord's Obligations.

(a) Landlord at its sole cost and regardless of the cost must: (i) maintain, replace, repair, and keep the Building Systems in water-proof, leak-free, good condition and repair in accordance with all applicable Laws and this Lease; and (ii) subject so **Subsection (b)**, promptly and diligently make any structural, seismic, engineering, and other upgrades or improvements to the Building Systems required by any Laws. For purposes of this Article, Landlord will be obligated to repair window and door frames only if, in the opinion of a licensed contractor acceptable to both parties, the framing is no longer functional or waterproof due to dry rot or another deteriorating condition.

(b) This Subsection will apply to any structural, seismic, engineering, and other upgrades or improvements to the Building Systems required by any City Laws enacted after the Commencement Date for which the cost exceeds \$200,000 ("**Building Systems Code Repair Threshold**"), as evidenced by at least 3 bids from licensed contractors reasonably acceptable to City. Landlord and Tenant will share equally the cost above the Building Systems Code Repair Threshold to the extent provided in this Subsection. The cost above the Building Systems Code Repair Threshold will be amortized over the useful life of the repair, based on depreciation schedules published in federal tax regulations, and Tenant will be obligated to pay a prorated monthly Additional Charge to be applied against 50% of the amortized cost until either this Lease terminates or Tenant's share is paid in full.

(c) Landlord's maintenance and repair obligations for the Major Systems arise only after Tenant's aggregate costs for Major Systems maintenance and repair exceed \$30,000 during the first Lease Year of the Term (the "**Major Systems Threshold**"). Bills and

replacement items of less than \$1,000 per occurrence, and maintenance and repair costs where and to the extent required due to Tenant's failure to obtain and keep in full force and effect the maintenance contracts required under **Section 8.3(b)** (Tenant's Obligations) will not be included when calculating the Major Systems Threshold. On the first anniversary of the Commencement Date, and on each subsequent anniversary of the Commencement Date during the initial Term, the Major Systems Threshold for the new Lease Year will be adjusted by multiplying the Major Systems Threshold during the previous Lease Year by the Adjustment Percentage; provided that in no event will the Adjustment Percentage for any Lease Year be less than 2% or more than 6%.

(i) Under **Section 8.3** (Tenant's Obligations), Tenant will notify Landlord in accordance with **Section 23.1** (Notices) when Tenant's Major Systems maintenance and repair costs will exceed the Major Systems Threshold. Tenant's notice must include evidence of costs, such as invoices marked "paid," describe the work in reasonable detail, and identify where the work was done. Landlord will be obligated to pay for Major Systems repair and maintenance costs exceeding the Major Systems Threshold.

(ii) Except as provided in **clause (iii)**, Landlord must commence within 3 days of receipt of the notice any required Major Systems maintenance or repairs and must notify Tenant of Landlord's anticipated schedule for performing required maintenance or repairs. Landlord must use commercially reasonable efforts to complete all the maintenance or repairs as promptly as possible, and, in consultation with Tenant but at Landlord's sole cost, must take commercially reasonable interim measures to ensure the habitability of the affected portions of the Premises pending completion of the maintenance activities or repairs.

(iii) If any Major Systems maintenance or repair above the Major Systems Threshold involves a component of the Major Systems necessary to maintain the life safety of the Premises, such as the elevator, fire safety/sprinkler system, utilities, or plumbing, then Tenant may notify Landlord telephonically or by other electronic means that will provide immediate notice, and Landlord must commence the required life safety Major Systems maintenance or repair within 24 hours of receipt of the notice and take all commercially reasonable measures to ensure that life safety Major Systems maintenance or repair is completed promptly. If Landlord does not commence life safety Major Systems maintenance or repair within the 24-hour period, Tenant may make the required life safety Major Systems maintenance or repair and will be entitled to a rent credit, which will be applied to Rent due under this Lease until fully credited at the rate of 1½ times Tenant's cost of maintenance or repair.

(d) If Tenant's use of any portion of the Premises is materially and adversely interrupted as a result of the Premises being rendered unsafe for human occupancy due to Landlord's failure to comply with its obligations under this Lease or for any other reason other than Tenant's default, then Landlord must immediately undertake all commercially reasonable steps to correct the condition. If the condition continues for 20 days or more after Tenant notifies Landlord of the condition, Rent will be abated until Landlord corrects the condition rendering any portion of the Premises untenable. If Landlord allows the condition to continue for 30 days or more after Tenant's notice to Landlord that Tenant's use is interrupted and the condition impairs Tenant's ability to carry on its business in the Premises, then, Tenant may elect to correct the condition and will be entitled to a rent credit, which will be applied to Rent due under this Lease until fully credited at the rate of 1½ times Tenant's cost of repair. If Landlord commences corrective activities within 20 days after receipt of Tenant's notice and supplies Tenant with evidence reasonably satisfactory to Tenant that Tenant's normal and safe use will be restored within 60 days after the date Tenant's use was interrupted, Tenant's right to elect this remedy will be suspended for the 60-day period and will be void if Tenant's full use is actually restored within the 60-day period.

8.3. Tenant's Obligations.

(a) Except as provided in **Section 8.2** (Landlord's Obligations), Tenant, at Tenant's cost, will: (i) keep the Premises in good repair, in a clean condition (ordinary wear and tear and damage by unavoidable casualty excepted) and properly maintained at all times; (ii) be responsible for Non-Major Repairs, except Non-Major Repairs or uninsured costs of repair of systems or facilities required on account of a casualty such as fire, earthquake, flood, or other act of nature; and (iii) be responsible for maintenance and repair of the Major Systems where and to the extent the maintenance or repairs are the result of Tenant's failure to obtain and keep in full force and effect the maintenance contracts required under **Subsection (b)**.

(b) Tenant, at Tenant's cost, will: (i) obtain and keep in full force and effect maintenance contracts for the Premises' heating system and elevator with licensed maintenance companies; (ii) obtain annual inspections and certifications or permits for the backflow prevention valve, the boiler and the elevator serving the Premises; (iii) maintain records of its performance of Tenant's obligations under this Section; and (iv) make those records available to Landlord for inspection and copying at Landlord's reasonable request.

(c) Tenant will have the sole right to select contractors to perform maintenance and repairs for which Tenant is responsible, provided that any contractor is licensed (if required) and was selected according to commercially reasonable property management practices.

8.4. Physical Needs Assessment.

(a) Within 90 days after the Commencement Date and the commencement of any Extended Term, Tenant will engage a consultant reasonably acceptable to Landlord to inspect the Premises and provide a written Physical Needs Assessment (a "PNA") in scope and format reasonably acceptable to both parties. Landlord and Tenant agree to meet and confer in good faith within 30 days after the consultant has delivered a draft PNA to determine whether to accept the draft PNA as written or to request that the consultant evaluate less costly methods of repairs before the final PNA is accepted.

(b) Landlord and Tenant agree to share equally the PNA consultant's fees and costs and use the final PNA to establish a mutually acceptable long-term schedule of repairs and maintenance that allocates costs in accordance with this Article. Landlord agrees to make repairs immediately to any deteriorated Building Systems or Major Systems conditions that, in the opinion of the PNA consultant, create life safety hazards.

8.5. Dispute Resolution. Landlord and Tenant agree to engage in good faith efforts to resolve any disputes over repair and maintenance obligations on an informal basis as promptly as practicable. If the parties are unable to resolve the dispute informally, either party may submit the dispute to mediation, followed by binding arbitration if mediation does not resolve the dispute, by written demand for selection of a neutral mediator or arbitrator, as the case may be, according to the dispute resolution procedures and qualifications set forth in **Exhibit C**.

8.6. Liens.

(a) Tenant will keep the Premises free from liens arising out of any work performed, material furnished or obligations incurred by Tenant during the Term. Landlord will have the right to post on the Premises any notices permitted or required by Law or that are needed for the protection of Landlord or the Premises from mechanics' and material suppliers' liens. Tenant will give Landlord at least 10 days' prior written notice of commencement of any repair or construction by Tenant on the Premises that costs more than \$2,500 per repair or construction.

(b) Should any claim or lien be filed against, or should Tenant learn of any intention of any third party to file any claim or lien against, or should any action be commenced affecting the Premises and/or Landlord's interest in the Premises, Tenant will give Landlord notice of the lien or intention or action within 10 days after Tenant receives notice of the same.

If Tenant does not, within 30 days following the imposition of any lien, cause the lien to be released of record by payment or posting a bond, Landlord will have the right but not the obligation to cause the same to be released by any means it deems proper, including payment of the claim giving rise to the lien or filing of a bond in favor of any lien claimant. All sums paid by Landlord and all costs incurred in connection therewith, including any reasonable and actual attorneys' fees and costs, will be payable to Landlord by Tenant as Additional Charges with the next monthly payment of Rent payable no more than 30 days after delivery to Tenant of evidence of Landlord's payment.

8.7. Loss or Damage. Except when caused by caused by Landlord's or its Agents' negligence or failure to meet Landlord's obligations under **Section 8.2** (Landlord's Obligations) or to the extent covered by Landlord's insurance, Landlord will not be liable for any damage to property or injury to persons: (a) by theft; (b) resulting from fire, earthquake, flood, or explosions; or (c) caused by operations in construction of any private, public, or quasi-public work.

9. UTILITIES AND SERVICES

9.1. Utilities. Tenant will be responsible, at Tenant's cost, for contracting directly with and paying or causing to be contracted with and paid all service providers for all utilities necessary for Tenant's intended uses, including gas, electricity, water, sewer service, garbage collection and telephone. Landlord agrees that, until separate meters are installed, Rent will be discounted for Tenant's payment of water used by the commercial premises in the building, as provided in **Section 4.1(b)** (Rent).

9.2. Services. Tenant is responsible for contracting for and paying the cost of linen service, maid/janitorial service, security, and any other services necessary for Tenant's use of the Premises under this Lease. Except as provided in **Section 9.3** (Disruption in Essential Utilities or Services), Landlord will not be responsible or liable for any damages resulting from any failure or interruption of services.

9.3. Disruption in Essential Utilities or Services. If any of the Essential Services are disrupted for any reason other than Tenant's failure to timely pay for the services, the disruption continues for any reason for a continuous period of 90 days or more following notice to Landlord, and the failure materially interferes with Tenant's ability to carry on its business in the Premises, then Tenant may take actions necessary to restore Essential Services and will be entitled to a rent credit, which will be applied to the next Rent obligations under this Lease at 1½ times Tenant's cost of repair until fully credited.

10. COMPLIANCE WITH LAWS; PREMISES CONDITION

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

- (a) Landlord represents to Tenant that, to the best of Landlord's knowledge:
- (i) The sidewalk outside the Premises complies with Disabilities Laws;
 - (ii) Except for items listed on **Exhibit A**, the Major Systems serving the Premises comply with all applicable Life Safety Laws; and
 - (iii) The Premises and the Major Systems have no material physical or mechanical defects that would materially adversely affect Tenant's intended use of the Premises.
- (b) Subject to **Section 10.2** (Tenant's Compliance with Laws; Indemnity), Landlord at all times during the Term must maintain the sidewalk outside the Premises in compliance with applicable present or future Disabilities Laws at Landlord's cost.

(c) The parties acknowledge that Landlord is not making a representation that the ground floor bathroom in the Premises complies with Disabilities Laws, as it was installed by the Prior Tenant under the Prior Lease.

10.2. Tenant's Compliance with Laws; Indemnity. Tenant must use the Premises during the Term in compliance with applicable Laws. Subject to Landlord's obligations under **Section 10.1** (Premises Condition and Landlord's Compliance with Laws; Indemnity), Tenant must make any alterations, additions or other modifications in order to comply with applicable Laws where the modifications are not otherwise Landlord's responsibility under this Lease. Tenant will be responsible for complying with any requirement of the Disabilities Laws relating to the placement of Tenant's furniture or other Tenant's 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 Premises along the path of travel to the Premises, that are Landlord's obligation under **Section 10.1** (Premises Condition and Landlord's Compliance with Laws; Indemnity). Tenant will also be responsible for any building upgrades required in order to comply with Disability Laws that result directly from Tenant's leasing of the Premises or any changes Tenant makes in and to the Premises.

11. SUBORDINATION

This Lease is and will be subject and subordinate to the following (each an "Encumbrance"): (a) any reciprocal easement agreements and ground leases or other underlying leases that may now exist or hereafter be executed affecting any portion of Landlord's interest in the Premises; and (b) the lien of any mortgage or deed of trust that may now exist or hereafter be executed by Landlord in any amount for which any part of the Premises, any ground leases or underlying leases, or Landlord's interest or estate in this Lease, is security. Landlord will have the right to subordinate or cause to be subordinated to this Lease any Encumbrance, provided that Landlord provides from the holder of the Encumbrance to Tenant a nondisturbance and attornment agreement in form and substance approved by Tenant, which approval will not be unreasonably withheld or delayed. If any ground lease or underlying lease terminates for any reason or any mortgage or deed of trust is foreclosed or a conveyance in lieu of foreclosure is made for any reason, Tenant will pay subsequent Rent and attorn to and become the tenant of the successor landlord, at the option of the successor-in-interest, provided that Tenant has received proper written notice of the succession and the name and address of the successor landlord. The provisions of this Article will be self-operative and no further instrument will be required other than as provided in this Article. Tenant agrees, however, to execute upon request by Landlord and in a form reasonably acceptable to Tenant, any additional documents evidencing the priority or subordination of this Lease with respect to an Encumbrance.

12. DAMAGE AND DESTRUCTION

If the Premises or any Major Systems are damaged by fire or other casualty, Landlord must repair the same without delay if permits for the repairs are not required under applicable Laws. Landlord must repair the damage by fire or other casualty within 60 days after Landlord obtains all necessary permits for the repairs and insurance proceeds attributable to the damage, but not later than 210 days after the date of the damage (the "Repair Period"). During any repair under this Article, this Lease will remain in full force and effect, except that Tenant will be entitled to abatement of Rent while the repairs are being made. The abatement in Rent will be based upon the extent to which the damage and the making of the repairs renders the Premises untenantable. Landlord's repairs will not include, and the Rent will not be abated as a result of, any damage by fire or other cause to Tenant's Property.

If permits for the repairs are required under applicable Laws, within 20 days after the date of the damage by fire or other casualty, Landlord must notify Tenant whether or not, in Landlord's reasonable judgment made in good faith, the repairs can be made within the Repair Period. If in Landlord's judgment the repairs cannot be made within the Repair Period, then either party, by written notice to the other given within 30 days after the date of the damage, may

terminate this Lease as of the date specified in the notice, which date may be not less than 30 nor more than 60 days after notice is given by Landlord. In case of termination, Rent will be reduced from the date of the damage by a proportionate amount based upon the extent to which the damage renders the Premises untenantable, and Tenant will pay the reduced Rent up to the date of termination, and Landlord will refund to Tenant any Rent previously paid in excess of the amount discussed in this Paragraph or for any period of time subsequent to the date of termination. In the alternative, Tenant may notify Landlord of Tenant's intent to make the repairs and, if Tenant does make the repairs, in addition to reduced Rent until the repairs are completed, Tenant will be entitled to a rent credit, which will be applied to its Rent obligation at the rate of 1½ times the cost of repair.

If Landlord has provided notice of intent to make the repairs during the Repair Period and proceeded to make the repairs in a timely manner, the Repair Period will be extended for any longer period as reasonably necessary for Landlord to complete required repairs, if and to the extent that Landlord demonstrates that despite its reasonable good faith efforts, it is unable to complete a required repair within the Repair Period.

If the Premises are damaged or destroyed by reason of flood or earthquake, and the 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, for which Landlord will be responsible), Landlord may terminate this Lease by written notice to Tenant within 30 days of the date Landlord receives written notice that the damage is not covered by insurance. The notice from Landlord must include adequate written evidence of the denial of insurance coverage. If Landlord does not elect to terminate this Lease as provided above, this Lease will remain in full force and effect, and Landlord must repair and restore the Premises as provided above.

The parties intend that the provisions of this Article will govern fully their rights and obligations in the event of damage or destruction, and Landlord and Tenant each hereby waives and releases any right to terminate this Lease in whole or in part under California Civil Code Sections 1932(2), 1933(4), 1941, or 1942 or under any similar Law, to the extent inconsistent with this Lease.

13. EMINENT DOMAIN

13.1. General. If during the Term a Taking or Partial Taking of the Premises or any interest in this Lease occurs, the rights and obligations of the parties will be determined under this Article. Tenant and Landlord intend that this Article will govern fully in the event of a Taking or Partial Taking and accordingly, the parties each hereby waive any right to terminate this Lease in whole or in part under California Code of Civil Procedure Sections 1265.110, 1265.120, 1265.130 and 1265.140 or under any similar Law.

13.2. Total Taking; Automatic Termination. If a Taking occurs, then this Lease will terminate as of the Date of Taking.

13.3. Partial Taking; Election to Terminate.

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

(b) If a Partial Taking occurs, and the condition rendering the Premises untenantable or unsuitable either is not curable or is curable but Landlord is unwilling or unable to cure the condition, then Tenant and Landlord will each have the right to terminate this Lease.

(c) Either party electing to terminate this Lease under the provisions of this Section may do so by giving written notice to the other party before or within 30 days after the Date of Taking, and thereafter this Lease will terminate upon the later of the 30th day after the written notice is given or the Date of Taking.

13.4. Rent; Award. Upon termination of this Lease under **Section 13.3** (Partial Taking; Election to Terminate), then: (a) Tenant's obligation to pay Rent will continue up until the date of termination, and thereafter will cease, except that Rent will be reduced as provided in **Section 13.5** (Partial Taking; Continuation of Lease) for any period during which this Lease continues in effect after the Date of Taking; and (b) Landlord will be entitled to the entire Award in connection with the Partial Taking, except that portion of the Award, if any, made specifically for Tenant's relocation costs or the interruption of or damage to Tenant's business or damage to Tenant's Property.

13.5. Partial Taking; Continuation of Lease. If a Partial Taking occurs under circumstances where this Lease is not terminated in its entirety under **Section 13.3** (Partial Taking; Election to Terminate), then this Lease will terminate as to the portion of the Premises so taken, but will remain in full force and effect as to the portion not taken, and the rights and obligations of the parties will be as follows: (a) Rent will 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 before the Date of Taking; and (b) Landlord will be entitled to the entire Award in connection with the Partial Taking, except that portion of the Award, if any, made specifically for Tenant's relocation costs or the interruption of or damage to Tenant's business or damage to Tenant's Property.

13.6. Temporary Taking. If a Taking occurs with respect to the Premises for a period of time not in excess of 60 consecutive days, this Lease will be unaffected, and Tenant will continue to pay Rent and to perform all of the terms, conditions and covenants of this Lease. In the event of a temporary Taking, Tenant will 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 proportion of the total Rent owing by Tenant for the period of the Taking, where the proportion is equal to the proportion of the square footage of the Premises subject to the Taking.

14. ASSIGNMENT AND SUBLETTING

14.1. General. Tenant will have the right, without Landlord's consent or approval, to sublet all or any portion of the units in the Premises, as set forth in **Section 14.2** (Subtenants). Subject to Landlord's prior written consent, which consent may not be unreasonably withheld or delayed, Tenant will have the right to sublet the entire Premises as a whole ("**Premises Sublease**"), or to assign its rights and obligations under this Lease, to any person or entity: (a) whose activities and business at the Premises are comparable in nature to the activities of Tenant at the Premises before the Premises Sublease or assignment; (b) who will conduct the activities and business at the Premises under an agreement with Tenant or another governmental entity; and (c) who has experience in the operation and maintenance of affordable housing consistent with the use of the Premises described in this Lease. If Landlord consents to an assignment or Premises Sublease under this Article, then Rent chargeable to the sublessee or assignee will be calculated in accordance with **Article 4** (Rent), and Tenant will pay Landlord reasonable actual fees, not to exceed \$1,500, incurred in connection with the request for consent. No subletting of all or any portion of the Premises or assignment will release Tenant's obligation or alter the primary liability of Tenant to pay Rent and to perform all other obligations to be performed by Tenant under this Lease, except as otherwise expressly permitted by Landlord in writing. Should Tenant sublet or assign its interest, Tenant will continue to make all payments directly to Landlord, Landlord may not accept funds from any entity other than Tenant, and there will be no privity of contract between Landlord and Tenant's assignee and/or sublessee, except as otherwise expressly permitted by Landlord in writing. Tenant will deliver to Landlord promptly upon request a fully executed copy of any assignment or Premises Sublease. Any Premises

Sublease or assignment between Tenant and a third party must explicitly state that the agreement is subject to and controlled by all terms of this Lease.

14.2. Subtenants. During the Term, Tenant will have the right to sublet the units in the Premises to Subtenant. Landlord will have no right to determine the amount of the sublease payments from Subtenants or receive any portion of the sublease payments. In addition, Landlord will have no right to determine the eligibility of Subtenants. Subtenants include all Existing Tenants and New Subtenants.

Tenant's subleases with Subtenants will specify, and require New Subtenants to acknowledge, the extent to which their payment of rent is subsidized by City in connection with Tenant's lease of the Premises, and that upon expiration or earlier termination of Tenant's Lease with Landlord, New Subtenants who still occupy units at the Premises: (i) will become direct tenants of Landlord without the rent subsidy; and (ii) each New Subtenant's total rent charges for a particular unit will be subject to adjustment to the amount provided in **Section 19.2** (Status of Subtenants on Surrender). Tenant's subleases with New Subtenants will explicitly state that the subleases are subject to and controlled by all terms of this Lease.

14.3. Landlord's Right to Assign. Landlord may assign its rights and obligations under this Lease to any trustee or beneficiary of Landlord upon reasonable advance notice to Tenant, provided that assignee expressly assumes all the rights and obligations and agrees to recognize Tenant's rights as the tenant under this Lease. The assignment will not be subject to **Article 22** (Special Provisions).

15. DEFAULT; REMEDIES

15.1. Events of Default by Tenant. Any of the following will constitute an event of default by Tenant under this Lease (each, a "**Tenant Event of Default**"):

(a) Tenant fails to make any timely payment of Rent and to cure the nonpayment within 5 days after the date when due; provided that with respect to the first monthly payment of Rent after the beginning of each new fiscal year of City, Tenant will have 20 days to cure any nonpayment; or

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

(c) Tenant fails to perform any other covenant or obligation of Tenant under this Lease (not involving the payment of money) and to cure the non-performance within 30 days of the date of receipt of notice from Landlord, provided that if more than 30 days are reasonably required for the cure, no Tenant Event of Default will occur if Tenant commences the cure within the 30-day period and completes the cure within 60 days.

15.2. Landlord's Remedies. Upon the occurrence of any Tenant Event of Default, Landlord will have all rights and remedies available under law or granted under this Lease, including the following:

The rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including the right to terminate Tenant'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 Tenant proves could be reasonably avoided, as computed under 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 Tenant's right to possession, if Tenant has the right to sublet or assign, subject only to reasonable limitations.

15.3. Landlord's Default. Subject to more specific provisions elsewhere in this Lease, if Landlord fails to perform any of its obligations under this Lease, then (without limiting any of Tenant's other cure rights under this Lease) Tenant, at its sole option, may cure the default at Landlord's cost if the default continues after 30 days from the date Tenant gives notice to Landlord of Tenant's intention to perform the cure. However, 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 the 30-day period, the 30-day period will be extended if Landlord, promptly upon receipt of Tenant's notice, advises Tenant of Landlord's intention to take all steps required to cure the default, and Landlord promptly commences the cure and diligently prosecutes the same to completion.

15.4. Tenant's Remedies. In addition to Tenant's other remedies in this Lease, if Landlord fails to cure any default within the cure period provided above, then, whether or not Tenant elects to cure Landlord's default as provided in this Lease, Rent and any other charges under this Lease will be abated based on the extent to which the default renders all or any portion of the Premises untenantable. If any default by Landlord continues for 60 days and impairs Tenant's ability to carry on its business in the Premises, then Tenant will have the right to terminate this Lease upon written notice to Landlord within 30 days after the expiration of the 60-day period. Tenant's rights under this Lease and under **Section 8.2** (Landlord's Obligations), **Section 9.3** (Disruption in Essential Services), and **Article 12** (Damage and Destruction) will not limit in any way any of its other rights and remedies under this Lease or at law or in equity.

16. INSURANCE

16.1. City's Self-Insurance. City maintains a program of self-insurance. Landlord agrees that City may not be required to carry any third-party comprehensive general liability insurance or other insurance with respect to this Lease. City assumes the risk of damage to any of Tenant's Property.

16.2. Landlord's Insurance. At all times during the Term, Landlord must keep the Premises (excluding the land upon which it is located), the Building Systems, and Major Systems insured against damage and destruction by fire, vandalism, malicious mischief, sprinkler damage and other perils customarily covered under an all risk insurance policy in an amount equal to 100% of replacement value in accordance with current Laws, excluding coverages for earthquake or flood. Before the Commencement Date and thereafter within 30 days before the expiration of the policy, Landlord must provide to Tenant an original certificate of insurance issued by the insurance carrier, evidencing the required insurance. The certificate must expressly provide that coverage may not be reduced and the policy may not be cancelled or otherwise modified without 30 days' prior written notice to Tenant. Landlord hereby waives any rights against Tenant for loss or damage to the Premises or any other part thereof, to the extent covered by Landlord's property insurance.

17. ACCESS BY LANDLORD

Landlord reserves for itself and any designated Agent the right to enter the Premises at all reasonable times and, except in cases of emergency (in which event Landlord must use commercially reasonable efforts, but will not be required, to give any prior notice), after giving Tenant at least 24 hours' advance written or oral notice, for the purpose of: (a) inspecting the Premises; (b) supplying any service to be provided by Landlord under this Lease; (c) showing the Premises to any prospective tenants, purchasers, mortgagees or, during the last 6 months of the Term of this Lease; (d) posting notices of non-responsibility; and (e) altering, improving or repairing the Premises and any portion of the Premises in accordance with this Lease, 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 these structures may not block the entrance to, or unreasonably interfere with Tenant's use of, the Premises.

18. ESTOPPEL CERTIFICATES

Either party, from time to time during the Term upon not less than 10 days' prior written notice from the other party, agrees to execute, acknowledge and deliver to the other party, or the persons or entities designated by the other 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, that 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) any other information that may be reasonably required.

19. SURRENDER OF PREMISES

19.1. Surrender of Premises. Upon the expiration or sooner termination of this Lease, Tenant will surrender the Premises to Landlord in good order and condition, reasonable use and wear and damage by fire or other casualty excepted. On or before the Expiration Date, Tenant will remove from the Premises all of Tenant's Property and any Alterations Tenant desires or is required to remove from the Premises under **Section 7.1** (Alterations by Tenant). Tenant will repair or pay the cost of repairing any damage to the Premises resulting from the removal. Tenant's obligations under this Section will survive the expiration or earlier termination of this Lease. Upon surrender of the Premises, Tenant will not be required to repair or replace any mattresses or other bedroom furniture that is damaged due to ordinary wear and tear.

19.2. Status of Subtenants on Surrender. Landlord agrees that, upon the expiration or earlier termination of this Lease, any then existing Subtenants will automatically become direct tenants of Landlord. Upon expiration of this Lease, Tenant will transfer to Landlord any security deposits held by Tenant from any Subtenants. Tenant agrees that all Subleases that Tenant enters into Subtenants during the Term will contain the disclosure provision required by **Section 14.2** (Subtenants). The parties acknowledge and agree that, upon the expiration or earlier termination of this Lease, the rent chargeable by Landlord to then existing Subtenants who become direct tenants of Landlord is subject to adjustment to an amount equal to Fair Market Rent for "zero bedroom" units as determined by reference to the most recently published Governmental Rent Index ("FMR").

19.3. Landlord's Eviction Costs. Tenant will use its best efforts to relocate existing Subtenants who do not wish to become direct tenants of Landlord before the Expiration Date. If Subtenants who do not relocate are incapable of paying FMR ("**Non-Qualifying Subtenants**"), Tenant agrees to reimburse Landlord for: (a) Landlord's expenses (including attorneys' fees and court costs) actually incurred within the 6-month period following the Expiration Date in connection with the legal eviction of Non-Qualifying Subtenants, up to Ten Thousand Dollars (\$10,000) per remaining Non-Qualifying Subtenant legally evicted, and One Hundred Thousand Dollars (\$100,000) in the aggregate; and (b) Landlord's actual rent losses on account of Non-Qualifying Subtenants' nonpayment of FMR, measured by the unpaid portion of FMR applicable to units occupied by Non-Qualifying Subtenants for a period of up to 3 months following the Expiration Date, up Forty Thousand Dollars (\$40,000) in the aggregate for all rent losses. Landlord must submit its invoice to Tenant for reimbursable expenses and lost rent, together with documentation of expenses and lost rents payable under this Section no later than 9 months following the Expiration Date.

20. HAZARDOUS MATERIALS

20.1. Landlord's Representations and Covenants. Landlord represents to Tenant that the following statements are true and correct to the best of Landlord's knowledge as of the Commencement Date: (a) the Premises are not in violation of any Environmental Laws; (b) the Premises are not now and have not been used for the manufacture, use, storage, discharge, deposit, transportation or disposal of any Hazardous Material, except for the use of the substances in limited quantities as is customary in office or residential use, which limited use has

been and is in compliance with Environmental Laws; (c) the Premises do not consist of any landfill or contain any underground storage tanks; (d) the Premises do not consist of any non-encapsulated asbestos-containing materials or building materials that contain any other Hazardous Material; (e) the Premises do not contain any lead-based paints that have not been painted over by non lead-based paint; (f) there is no Release of any Hazardous Material in, on or under the Premises; and (g) the Premises are 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 the California Department of Toxic Substances Control or the Regional Water Quality Control Board) with respect to the presence of Hazardous Material in, on, or under the Premises, or the migration of Hazardous Material from or to other real property. In performing its obligations under this Lease, Landlord must comply with all Environmental Laws applicable to the obligations that could affect the health, safety and welfare of City's employees or Tenant's use, occupancy or enjoyment of the Premises for their intended purposes.

20.2. Landlord's Environmental Indemnity. In addition to Landlord's indemnities under **Article 21** (Indemnities), Landlord must indemnify Tenant and its Agents against any and all Claims arising during or for a period of 3 years after expiration of 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, on or under the Premises, unless Tenant, its Subtenants or its Agents caused the Release.

20.3. Tenant's Covenants. Tenant agrees to comply with all Environmental Laws related to its use of the Premises. Neither Tenant nor its Agents may cause any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or throughout the Premises, or transported to or from the Premises, in violation of any Environmental Laws, provided that Tenant may use the substances in limited amounts as is customary in office or residential use so long as the use is in compliance with all applicable Environmental Laws. In the event Landlord, in its reasonable judgment, has reason to believe that any Hazardous Substances have been brought upon, used or Released in or about the Premises by Tenant, its Subtenants or its Agents with or without Landlord's consent, Landlord will be entitled, at reasonable intervals during the Term, in Landlord's sole discretion, to have an environmental audit report, including a Phase I and Phase II report, performed, the costs and costs of which will be the sole responsibility of and paid by Landlord. Tenant will reimburse Landlord for the reasonable and actual costs of the report(s) if and to the extent Tenant has caused or permitted the Hazardous Substances to have been brought upon, used or Released in or about the Premises.

20.4. Tenant's Environmental Indemnity. If Tenant breaches its obligations under **Section 20.3** (Tenant's Covenants), or if Tenant or its Agents cause the Release of Hazardous Material from, in, on or about the Premises (collectively, a "**Hazardous Materials Violation**"), then Tenant must indemnify Landlord against any and all Claims arising during or after the Term of this Lease as a result of any Hazardous Materials Violation, except to the extent Landlord or its Agents are responsible for the Hazardous Materials Violation. Tenant's obligations under this Section will include defending Landlord against any cost, expense, loss, demand, claim or liability, including reasonable and actual attorneys' fees and disbursements and costs incurred in connection with any investigation of site conditions or any cleanup, remediation, removal or restorative work required by any federal, state or local governmental agency or political subdivision resulting from a Hazardous Materials Violation. The foregoing indemnity will not include any Claims resulting from the non-negligent aggravation by Tenant, its Agents or Invitees or Subtenants of physical conditions of the Premises existing before Tenant's occupancy.

21. INDEMNITIES

21.1. Landlord's Indemnification. Except and to the extent the claims are based upon acts of Tenant or its Agents, Landlord must indemnify, defend, protect and hold Tenant and its Agents free and harmless from and against any Claims: (a) resulting from any breach of this

Lease by Landlord; and (b) arising from events that occur either before the Commencement Date or after the expiration or termination of this Lease.

21.2. Tenant's Indemnification. Except and to the extent the claims are based upon acts of Landlord or its Agents, Tenant must indemnify, defend, protect and hold Landlord and its Agents free and harmless from and against any and all Claims: (a) resulting from any breach of this Lease by Tenant; (b) by Subtenants arising from events that occur on the Premises during the Term of this Lease; (c) in connection with loss of life, personal injury and/or damage to property arising from or out of the occupancy or use by Tenant, or occasioned wholly or in part by any act or omission of Tenant or its Agents, or any accident, injury or damage to any person or property, occurring in or about the Premises during the Term.

21.3. Scope of Indemnity. Indemnification obligations under this Lease will not apply to damages resulting from the indemnified party's (or its Agents') gross negligence or willful acts or omissions. The obligation to indemnify will arise when a Claim is tendered, even if the allegations are or may be groundless, false or fraudulent. Tenant will have the right, at its sole option, to defend Landlord and its Agents by attorneys in the City Office of the City Attorney, by other attorneys, or both, whether or not a judicial or nonjudicial proceeding is initiated.

22. SPECIAL PROVISIONS

22.1. Transfer of Landlord's Interest; First Right of Refusal to Purchase.

(a) Landlord will have the right to transfer its interest in the Property or the Building, subject to the conditions set forth in this Lease.

(b) If Landlord receives an offer to purchase the Property or Building at a price, terms and conditions acceptable to Landlord, Landlord must first offer the Property or Building to Tenant at the same price, under the same conditions and terms as the prior offer (the "**First Offer Terms**") in a written notice ("**Notification**") sent by certified mail, receipt requested, to Tenant within 5 business days of Landlord's receipt of the offer. Tenant will have 45 days from the Notification date to accept the offer to purchase at the First Offer Terms, subject to subsequent approval by City's Board of Supervisor and Mayor.

(c) Tenant's offer to purchase will be subject to the approval of the Board of Supervisors and the Mayor of a proposed Purchase and Sale Agreement within 60 days of Tenant's response accepting the First Offer Terms and otherwise upon the other business terms contained in this Lease; provided that Landlord will agree to a reasonable extension if the matter has been set for hearing by the Board, but not heard, within the 60-day period .

(d) Tenant will have 30 days from the date of execution of the Purchase and Sale Agreement to perform, at its sole cost, a due diligence investigation. Landlord must cooperate in effecting this investigation. Close of escrow must occur on or before 30 days from the date of Tenant's notice of the approval by the Board of Supervisors and Mayor of the purchase and, in any event, must occur no later than 160 days after full execution of the Purchase and Sale Agreement, unless the parties mutually agree to extend the time.

(e) At close of escrow Tenant will pay for the cost of the premium of an extended coverage title insurance policy, escrow fees, and all other typical closing costs incurred by a buyer. Landlord will pay transfer taxes and all other typical closing costs incurred by a seller. Landlord must deliver the following (among other customary items) through a mutually agreeable escrow company:

- (i) a grant deed conveying ALTA insurable title subject only to taxes not yet due and payable, existing leasehold interests, and other exceptions acceptable to Tenant;
- (ii) executed estoppel certificates, if applicable;
- (iii) a bill of sale for Landlord's personal property on the Property; and

(iv) a written disclosure of all known facts (including any and all property inspection reports) that would affect the marketability or Tenant's intended use of the Property or Building.

(f) If Tenant does not agree to purchase the property for the First Offer Terms, then the right of first refusal as to that offer will terminate; provided, however, that before Landlord agrees to sell the Premises to any potential buyer who is willing to pay a gross purchase price (an amount determined without regard to any brokerage commission liability, but reduced by any Landlord credits or give backs to the potential buyer for the items as existing building conditions or tenant improvements, the "**Gross Purchase Price**") less than the amount of the First Offer Terms, Landlord must provide Tenant with at least 45 days' notice and the right to purchase the Premises at the Gross Purchase Price. In order to exercise the right of first refusal as to any offer at the Gross Purchase Price, Tenant must agree in writing to purchase the Premises at the Gross Purchase Price, subject to **Subsections(c), (d) and (e)** before the 45-day period expires.

(g) This first right of refusal will terminate and be of no further effect if a sale of the Premises to a third party is consummated after Landlord has complied fully with this Section. If Landlord sells or otherwise transfers the Premises to a third party, Landlord must deliver to Tenant an express assumption of all of Landlord's obligations under this Lease fully executed by the proposed transferee and in a form reasonably acceptable to Tenant.

(h) Tenant's exercise of this right of first refusal twice during any 10-year period, which does not result in Tenant's purchase of the Premises, will extinguish Tenant's rights to purchase the Premises under this Section.

(i) This Section does not apply to any transfer of all or any part of Landlord's ownership to any member of Landlord's family, either as individuals or in trust for the benefit of any family member, or to any limited liability company or partnership, limited partnership or corporation in which Landlord is a member or partner.

23. GENERAL PROVISIONS

23.1. Notices. Except as otherwise specifically provided in this Lease, any notice given under this Lease must 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) Tenant 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) any other address either Landlord or Tenant designates as its new address for notice by notice given to the other in accordance with this Section. Any notice given in accordance with this Section will be deemed to have been given and received 2 days after the date when it is mailed if sent by first-class, certified mail, the day after the date when it is mailed if sent by express mail, or upon the date personal delivery is made or a the date personal delivery is attempted but refused.

23.2. 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 thereof will constitute a waiver of breach or of the term, covenant or condition. No acceptance of full or partial Rent by Landlord while Tenant is in default under this Lease will constitute a waiver of the default by Landlord. No express written waiver of any default or the performance of any provision hereof will affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in the express waiver. One or more written waivers of a default or the performance of any provision hereof will not be deemed to be a waiver of a subsequent default or performance. The consent of Landlord or Tenant given in one instance under the terms of this Lease will not relieve the other party of any obligation to secure the consent to any other or future instance under the terms of the Lease.

23.3. Force Majeure. The occurrence of any of the following events (each, a "Force Majeure Event") will excuse performance of the obligations of Landlord or Tenant as are rendered impossible to perform while the event continues: strikes; lockouts; labor disputes; acts of nature; inability to obtain labor, materials or reasonable substitutes therefore; governmental restrictions, regulations or controls; judicial orders; enemy or hostile governmental actions; civil commotions; fire or other casualty; and other causes beyond the reasonable control of the party obligated to perform. The occurrence of a Force Majeure Event will excuse performance only if the party to be excused from performance has provided notice to the other party within 30 days after the occurrence or commencement of the event or events.

23.4. Amendments. Neither this Lease nor any terms or provisions hereof 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 will affect or alter this Lease, but each and every term, covenant and condition of this Lease will continue in full force and effect with respect to any other then-existing or subsequent breach thereof. Any amendments or modifications to this Lease, including amendments to or modifications to the exhibits to this Lease, will be subject to the mutual written agreement of Landlord and Tenant and 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 (a) changing the legal description of the Premises; (b) increasing the Term; (c) increasing the Rent; (d) changing the general use of the Premises from the use authorized under Section 5.1 (Permitted Use); and (e) any other amendment or modification that materially increases Tenant's liabilities or financial obligations under this Lease will additionally require the approval of the Board and the Mayor.

23.5. Authority. Landlord represents and warrants to Tenant that the execution and delivery of this Lease by Landlord has been duly authorized and does not violate any provision of any agreement or Law to which Landlord or the Premises is subject.

23.6. Approvals. All approvals, consents or other determinations permitted or required by Tenant under this Lease will 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 and Administrative Code.

23.7. Successors and Assigns. Subject to the provisions of Article 14 (Assignment and Subletting), the terms, covenants and conditions contained in this Lease will bind and inure to the benefit of Landlord and Tenant and, except as otherwise provided in this Lease, their personal representatives and successors and assigns. There are no third-party beneficiaries to this Lease, including any management agent with which Tenant may contract for management of the Premises.

23.8. Management. Tenant intends to contract with a management agent for the management of the Premises in accordance with this Lease. However, Tenant's obligations under this Lease are not contingent on the existence or validity of a management contract. In the event of any inconsistency between the terms of this Lease and any management contract, the terms of this Lease will control.

23.9. 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 contemplated in this Lease, except for the broker, if any, identified in the Basic Lease Information, whose commission, if any is due, will be the sole responsibility of Landlord under a separate written agreement between Landlord and the broker, and Tenant will have no liability for fees or commissions. In the event that any other broker or finder perfects a claim for a commission or finder's fee based upon contact, dealings or communication, the party through whom the broker or finder makes his claim will be responsible for the commission or fee and will indemnify the other party from any and all Claims incurred by the indemnified party in

defending against the same. The provisions of this Section will survive any termination of this Lease.

23.10. Severability. If any provision of this Lease or the application thereof to any person, entity or circumstance is invalid or unenforceable to any extent, the remainder of this Lease, or the application of the provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, will not be affected thereby, and each other provision of this Lease will be valid and be enforceable to the full extent permitted by law.

23.11. Governing Law. This Lease must be construed and enforced in accordance with the Laws of the State of California and City's Charter.

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

23.13. Attorneys' Fees. If either Landlord or Tenant fails to perform any of its obligations under this Lease or in the event a dispute arises concerning the meaning or interpretation of any provision of this Lease, the defaulting party or the party not prevailing in the dispute, as the case may be, must pay any and all costs incurred by the other party in enforcing or establishing its rights under this Lease (whether or not the action is prosecuted to judgment), including court costs and reasonable attorneys' fees. For purposes of this Agreement, reasonable fees of attorneys of City's Office of the City Attorney will 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 following are not covered by this Section: (a) actions by City acting in its regulatory capacity, and not in its capacity as Tenant under this Lease; and (b) dispute resolution procedures governed by **Section 8.5** and **Exhibit C**.

23.14. Holding Over.

(a) Should Tenant hold over in possession of the Premises after the expiration of the Term with Landlord's consent, the holding over may not be deemed to extend the Term or renew this Lease, but the tenancy thereafter will continue as a month-to-month tenancy. The tenancy will be on all the terms and conditions set forth in this Lease and at the monthly Rent in effect during the last month of the Term of the Lease or any other rental as Landlord and Tenant may mutually agree in writing as a condition to Landlord's consent to the holding over, and Tenant will continue as a month-to-month tenant until the tenancy is terminated by Landlord giving Tenant or Tenant giving Landlord at least 30 days' prior written notice of termination. Should Tenant hold over, the Rent payable by Tenant during the period of the holding over will be 150% of the monthly Rent in effect during the last month of the Term of this Lease, and the tenancy will otherwise be on the terms and conditions contained in this Lease, except that the Term of this Lease will be on a month-to-month basis. In the event Tenant holds over in possession of the Premises after expiration of the Term, Tenant agrees to indemnify Landlord for any costs reasonably and actually incurred by Landlord as a direct result of Tenant's holding over.

(b) If Tenant and Landlord have entered into negotiations for a new lease following the expiration of this Lease at least 60 days before the Expiration Date, Tenant will not be obligated to pay Rent at the holdover rate, but, instead, will continue to pay Rent at the same rate as established for the final Lease Year until the parties either have entered into a new lease or terminated negotiations.

23.15. Cumulative Remedies. All rights and remedies of either party set forth in this Lease will be cumulative, except as may otherwise be provided.

23.16. 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.

23.17. Survival of Indemnities. Termination of this Lease will 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 will it affect any provision of this Lease that expressly states it will survive termination hereof. Each party hereto 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 the allegation is or may be groundless, fraudulent or false, which obligation arises at the time the claim is tendered to the indemnitor by the indemnitee and continues at all times thereafter.

23.18. Signs/Structures. Tenant may erect or post signs on or about the Premises subject to Landlord's prior approval as provided below. Landlord reserves the right to review the placement, design, and plan for any sign before its erection or posting and agrees that the approval thereof may not be unreasonably withheld or delayed. If Tenant contracts with an outside contractor for signage, the contract must terminate upon Tenant's termination of this Lease and all signage must be removed from the Premises upon Lease termination.

23.19. Quiet Enjoyment and Title. Landlord covenants and represents that it has full right, power and authority to grant the leasehold estate under this Lease, and covenants that Tenant, upon paying the Rent under this Lease and performing the covenants hereof, will 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 **Article 21 (Indemnities)**, Landlord agrees to indemnify Tenant and its Agents against Claims arising out of any assertion that would interfere with Tenant's right to quiet enjoyment as provided in this Section.

23.20. Bankruptcy. Landlord represents and warrants to Tenant 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 the filing is threatened. Landlord and Tenant agree that Tenant's leasehold estate created hereby includes all rights to receive and enjoy all services, facilities and amenities of the Premises as provided in this Lease, and that if any of the services, facilities or amenities are terminated, or materially limited or restricted on account of a case or proceeding, or for any other reason, then in addition to any other remedies provided in this Lease, Tenant will have the right to contract directly with any third-party provider of the services, facilities or amenities to obtain the same.

23.21. Transfer of Landlord's Interest. Landlord will have the right to transfer its interest in the Premises or this Lease to any other financially responsible person or entity. In the event of a transfer, Landlord will be relieved, upon notice to Tenant of the name and address of Landlord's successors, of any obligations accruing under this Lease from and after the date of the transfer and upon delivering to Tenant an express assumption by the transferee of all of Landlord's obligations under this Lease.

23.22. Non-Liability of City Officials, Employees and Agents. No elective or appointive board, commission, member, officer, employee or agent of City will be personally liable to Landlord, its successors and assigns, in the event of any default or breach by City or for any amount that may become due to Landlord, its successors and assigns, or for any obligation of Tenant under this Lease, except and to the extent of any gross negligence or willful misconduct of the individual or entity.

23.23. MacBride Principles - Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Sections 12F.1 et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Landlord acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

23.24. Controller's Certification of Funds. The terms of this Lease will be governed by and subject to the budgetary and fiscal provisions of the Charter of the City and County of San Francisco. Any City obligation for the payment or expenditure of money under this Lease is contingent on the Controller of the City and County of San Francisco first certifying, under Section 3.105 of the Charter of the City and County of San Francisco, 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. Accordingly, 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 will use its reasonable efforts to give Landlord reasonable advance notice of the termination.

23.25. Nondiscrimination in City Contracts and Benefits Ordinance.

(a) **Covenant Not to Discriminate:** In the performance of this Lease, Landlord covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, height, weight, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee or, any City employee working with, or applicant for employment with, Landlord in any of Landlord's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Landlord.

(b) **Subcontracts:** Landlord must include in all subcontracts relating to the Premises a non-discrimination clause applicable to the subcontractor in substantially the form of **Subsection (a)**. In addition, Landlord must incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k) and 12C.3 of the San Francisco Administrative Code and must require all subcontractors to comply with the provisions. Landlord's failure to comply with the obligations in this Subsection will constitute a material breach of this Lease.

(c) **Nondiscrimination in Benefits:** Landlord does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco or where the work is being performed for City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving costs, pension and retirement benefits specified above within the United States, between employees with domestic partners and employees with spouses, and/or between domestic partners and spouses of the employees, where the domestic partnership has been registered with a governmental entity under state or local Law authorizing the registration, subject to the condition set forth in San Francisco Administrative Code Section 12.B2(b).

(d) **HRC Form:** As a condition to this Lease, Landlord must execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission (the "**HRC**"). Landlord hereby represents that before execution of the Lease: (i) Landlord executed and submitted to the HRC Form HRC-12B-101 with supporting documentation, and (ii) the HRC approved the form.

(e) Incorporation of Administrative Code Provisions by Reference: The provisions of San Francisco Administrative Code Chapters 12B and 12C 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 Agreement as though fully set forth in this Lease. Landlord must comply fully with and be bound by all of the provisions that apply to this Lease under any Chapters of the Administrative Code, including the remedies provided in those Chapters. Landlord understands that under San Francisco Administrative Code Section 12B.2(h), a penalty of \$50 for each person for each calendar day during which the 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.

23.26. Tropical Hardwood and Virgin Redwood Ban. Except as expressly permitted by the application of San Francisco Environment Code Sections 802(b) and 803(b), neither Landlord nor any of its contractors may provide any items to City in the construction of Landlord's Work or otherwise in the performance of this Lease that are tropical hardwood, tropical hardwood wood products, virgin redwood, or virgin redwood wood products.

The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood, or virgin redwood wood products.

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

23.27. Preservative-Treated Wood Containing Arsenic. Landlord may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under San Francisco Environment Code Section 1304. The term "**preservative-treated wood containing arsenic**" means 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 the Department of Environment. This provision does not preclude Landlord from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "**saltwater immersion**" means a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

23.28. Resource-Efficient Facilities and Green Building Requirements. Landlord acknowledges that City has enacted San Francisco Environment Code Chapter 7 relating to resource-efficient buildings and green building design requirements. Landlord agrees to comply with all applicable provisions.

23.29. Tobacco Products Advertising Ban. Landlord acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of City, including the property that is the subject of this Lease. This prohibition includes the placement of the name of a company producing, selling, or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This prohibition does not apply to any advertisement sponsored by a state, local, or nonprofit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

23.30. Bicycle Storage Facilities. San Francisco Planning Code Section 155.1 requires City to provide, at no cost to Landlord and if City funds are available, bicycle storage at all City-leased buildings for City employees occupying the building and/or members of the public when City's premises are open to the public. In the event public or private donations, grants, or other funds become available at any time during the Term, City will have the option to include parking stalls that meet these requirement in the Premises in accordance with **Section 7.2** (Alterations by Tenant).

23.31. Notification of Limitations on Contributions. Through its execution of this Lease, Landlord acknowledges that it is familiar with San Francisco Campaign and Governmental Conduct Code Section 1.126, which prohibits any person who contracts with City for the selling or leasing any land or building to or from City whenever the transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for the contract until the termination of negotiations for the contract or a specified period (currently 6 months) has elapsed from the date the contract is approved by City elective officer, or the board on which that City elective officer serves. San Francisco Ethics Commission Regulation 1.126-1 provides that negotiations are commenced when a prospective contractor first communicates with a City officer or employee about the possibility of obtaining a specific contract. This communication may occur in person, by telephone or in writing, and may be initiated by the prospective contractor or a City officer or employee. Negotiations are completed when a contract is finalized and signed by City and the contractor. Negotiations are terminated when City and/or the prospective contractor end the negotiation process before a final decision is made to aware the contract.

23.32. Sunshine Ordinance. In accordance with San Francisco Administrative Code Section 67.24(e), 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 that is covered by this Section will be made available to the public upon request.

23.33. Conflicts of Interest. Through its execution of this Lease, Landlord acknowledges that it is familiar with the provisions of San Francisco Charter Section 15.103, San Francisco Campaign and Governmental Conduct Code Chapter 2, and California Government Code Sections 87100 et seq. and Sections 1090 et seq., and certifies that it does not know of any facts that would constitute a violation of those provisions, and agrees that if Landlord becomes aware of any such fact during the Term, Landlord will immediately notify DPH.

23.34. Public Transit Information. Landlord will establish and carry on at Landlord's sole cost during the Term a program to encourage maximum use of public transportation by personnel of Landlord employed on the Premises, including the distribution to employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the building and encouraging use of those facilities.

23.35. Food Service Waste Reduction Ordinance. Landlord agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated in and made a part of this Lease by reference as though fully set forth. This provision is a material term of this Lease. By entering into this Lease, Landlord agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Landlord agrees that the sum of \$100 in liquidated damages for the first breach, \$200 in

liquidated damages for the second breach in the same year, and \$500 in liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation(s), established in light of the circumstances existing at the time this Lease was made. These amounts will not be considered penalties, but rather agreed monetary damages sustained by City because of Landlord's failure to comply with this provision.

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

23.37. Effective Date. The date on which this Lease will become effective is the date upon which the Mayor's and the Board's approval of this Lease are final in accordance with all applicable Laws.

LANDLORD ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS LEASE UNLESS AND UNTIL THE BOARD OF SUPERVISORS HAS DULY ADOPTED A RESOLUTION APPROVING THIS LEASE AND AUTHORIZING CONSUMMATION OF THE LEASE TRANSACTION. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY UNDER THIS LEASE ARE CONTINGENT, AND THIS LEASE WILL BE NULL AND VOID UNLESS CITY'S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS LEASE, IN 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 MAY NOT BE DEEMED TO IMPLY THAT THE RESOLUTION WILL BE ADOPTED OR CREATE ANY BINDING OBLIGATIONS ON CITY.

23.38. Certification by Landlord. By executing this Lease, Landlord certifies that Landlord nor any of its officers or members have been suspended, disciplined or debarred by, or prohibited from contracting with any federal, state or local governmental agency. In the event Landlord or any of its officers or members have been so suspended, disbarred, disciplined or prohibited from contracting with any governmental agency, it must immediately notify City of same and the reasons therefore together with any relevant facts or information requested by City. Any suspension, debarment, discipline or prohibition may result in the termination or suspension of this Lease. Landlord acknowledges that this certification is a material term of the Lease.

23.39. 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 the captions will in no way define or limit the scope or intent of any provision of this Lease. All exhibits are incorporated in this Lease by reference. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Lease and will 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 Tenant is required or requested to give its consent or approval to any matter or action by the other, the consent or approval will not be unreasonably withheld or delayed and the reasons for disapproval of consent must be stated in reasonable detail in writing. Provisions in this Lease relating to number of days will 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 will be the next succeeding business day. Use of the word "including" or similar words may 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.

23.40. Definitions. Definitions used in this Lease are found in the specified locations in this Lease or are set forth below.

"**Additional Charges**" means all fees, costs, liabilities, and obligations that Tenant assumes or is obligated to pay or discharge under this Lease, together with every fine, penalty, interest, or other charge that may be added for nonpayment or late payment.

"**Adjustment Percentage**" means the percentage change in the CPI most recently published as of the end of the applicable Lease Year from the CPI most recently published as of the commencement of the applicable Lease Year.

"**Agents**" when used with reference to either party to this Lease or any other person, means the officers, directors, employees, agents, and contractors of the party or other person, and their respective heirs, legal representatives, successors, and assigns.

"**Alterations**" means any alterations, installations, additions or improvements to the Premises.

"**Award**" means all compensation, sums or anything of value paid, awarded or received for a Taking, whether under judgment, agreement, settlement or otherwise.

"**Basic Lease Information**" means the terms and conditions to this Lease summarized in Article 1 of this Lease.

"**Board**" is defined in Section 3.1.

"**Building Systems**" is defined in Section 8.1(a).

"**Building Systems Code Repair Threshold**" is defined in Section 8.2(b).

"**business day**" means any week day during which businesses are generally open for business, excluding local, state, and federal holidays observed by Port.

"**City**" means the City and County of San Francisco, a municipal corporation.

"**Claims**" means any and all claims, demands, actions, damages, liability and cost (including reasonable attorneys' fees and costs of investigation with respect to any claim, demand or action).

"**Commencement Date**" means the date on which the Term commences as specified in the Basic Lease Information.

"**Construction Documents**" is defined in Section 7.1(b).

"**cost**" means all cost and expense.

"**CPI**" means the Consumer Price Index for all Urban Consumers (1982 – 84 = 100) published by the United States Department of Labor, Bureau of Labor Statistics for the San Francisco Metropolitan Area.

"**Date of Taking**" means the earlier of the date upon which title to any portion of the Premises taken passes to and vests in the condemnor or the date on which Tenant is dispossessed.

"**Disabilities Laws**" means the Americans With Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., 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.

"**Encumbrance**" is defined in Article 11.

"**Environmental Law**" means 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.

"**Essential Services**" means the sanitary, electrical, HVAC system, water, elevator, and other essential services serving the Premises.

"Existing Tenants" are those households currently occupying units as of the Commencement Date.

"Expiration Date" means the date on which the Lease expires as specified in the Basic Lease Information, as the term may be modified under Section 3.2.

"Extended Term" is defined in Section 3.2.

"Extension Options" is defined in Section 3.2.

"Fair Market Rent" means the prevailing market rate for space of comparable size and location to the Premises in other master-leased buildings similar in age, seismic condition, location, and quality to the Premises, taking into account all factors to make the spaces comparable to the Premises, such as: (i) any cost adjustments such as utilities paid; (ii) any additional rent and all other payments and escalations payable; (iii) floor location, access to natural light, and size of the premises of the comparable space; (iv) the duration of the renewal term and the term of the lease for comparable space; (v) free rent and any other tenant concessions offered under the comparable space; and (vi) tenant improvement allowances and other allowances offered for the comparable space.

"FF&E" means furniture, fixtures, and equipment in the Premises.

"First Offer Terms" is defined in Section 22.1(b).

"FMR" is defined in Section 19.2.

"Force Majeure Event" is defined in Section 23.3.

"Governmental Rent Index" means the schedule of current fair market rents for zero bedroom rental units for the San Francisco Primary Metropolitan Statistical Area from time to time, as determined by HUD and published in the Federal Register, or, if HUD no longer publishes these rates, an index published by a governmental agency that is widely used and accepted to establish fair market rents for subsidized housing units.

"Gross Purchase Price" is defined in Section 22.1(f).

"Hazardous Material" means 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 any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended (42 U.S.C. §§ 9601 et seq.), or under Section 25316 of the California Health & Safety Code; any "hazardous waste" listed under Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not the materials are part of the structure of the Premises or are naturally occurring substances on or about the Premises; and petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

"Hazardous Materials Violation" is defined in Section 20.4.

"HRC" is defined in Section 23.25(d).

"HUD" means the United States Department of Housing and Urban Development and any successor agency.

"HVAC" means the heating, venting and air conditioning system (including the boiler) of the Premises.

"Invitees" means Tenant's clients, invitees, patrons, guests, Subtenants, and any other person whose rights arise through them.

"Landlord" is the party identified as Landlord in the Basic Lease Information.

"Landlord's Work" is defined in Section 6.1 and identified in Exhibit A.

"Law" means any present or future federal, state, local or administrative law, statute, ordinance, code, resolution, rule, regulation, judicial decision, requirement, proclamation, order, decree, policy of any governmental body with jurisdiction over any portion of the Premises, whether in effect when this Lease is executed or at any later time and whether or not within the present contemplation of the parties.

"Lease" is defined in the preamble.

"Lease Year" means the calendar year immediately following the Commencement Date and any subsequent calendar year during the Term, as it may be extended.

"Life Safety Laws" means federal, state, local and administrative laws, rules, regulations, orders and requirements relating to fire and life safety.

"MAI" appraiser means an individual who holds an MAI designation conferred by, and is an independent member of, the Appraisal Institute (or its successor organization, or in the event there is no successor organization, the organization and designation most similar).

"Major Systems" is defined in Section 8.1(b).

"Major Systems Threshold" is defined in Section 8.2(c).

"New Subtenants" are Subtenants with whom Tenant enters into new Premises Subleases from time to time during the Term.

"Non-Major Repairs" is defined in Section 8.1(c).

"Non-Qualifying Subtenants" is defined in Section 19.3.

"Notification" is defined in Section 22.1(b).

"Option Notice" is defined in Section 3.2.

"ordinary wear and tear" means wear and tear to the Premises over the Term, assuming that Tenant complies with its repair, maintenance, and other obligations under this Lease.

"Partial Taking" means a Taking of any portion (but less than all) of the Premises.

"party" means Tenant and its authorized successors and assigns or Landlord and its successors or assigns.

"Permitted Use" means the uses specified in the Basic Lease Information.

"person" means any individual, partnership, corporation (including any business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture, Regulatory Agency, or any other entity or association.

"PNA" is defined in Section 8.4(a).

"Premises" is defined in Article 2.

"Premises Sublease" is defined in Section 14.1.

"preservative-treated wood containing arsenic" is defined in Section 23.27.

"prevailing party" means the party that substantially obtains or defeats, as the case may be, the relief sought in the action or proceeding, whether by compromise, settlement, judgment, or the other party's abandonment of its claim or defense.

"Prior Lease" is defined in the preamble.

"Prior Tenant" is defined in the preamble.

"Real Estate Taxes" means all taxes, assessments and charges levied upon or with respect to the Premises, including all general real property taxes and general and special assessments, charges, fees, or assessments for transit, housing, police, fire, or other governmental services thereof, service payments in lieu of taxes, and any tax, fee, or excise on the act of entering into this Lease or any other lease of space in the Premises or any part thereof, or on the rent payable under any lease or in connection with the business of renting space in the Premises, that are now or hereafter levied or assessed against Landlord by the United States of America, the State of California or any political subdivision thereof, public corporation, district, or any other political or public entity, and will 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, whether or not now customary or in the contemplation of the parties on the date of this Lease.

"Release" when used with respect to Hazardous Material includes any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside the Premises, or in, on, under or about the Premises.

"Rent" means the monthly Rent specified in the Basic Lease Information and described further in Section 4.1(a).

"Repair Period" is defined in Article 12.

"saltwater immersion" is defined in Section 23.27.

"substantially complete" is defined in Section 7.1(h).

"Subtenants" means individual subtenant rental households.

"Taking" means a taking or damaging, including severance damage, by eminent domain, inverse condemnation or for any public or quasi-public use under Law of all of the Premises or the interest under this Lease, and may be consummated by recording a final order of condemnation, or by voluntary sale or conveyance in lieu of condemnation or in settlement of a condemnation action.

"Tenant" means the party identified as Tenant in the Basic Lease Information.

"Tenant Event of Default" is defined in Section 15.1.

"Tenant's Property" is defined in Section 7.3(a).

"Term" is defined in Section 3.1, and may be modified under Section 3.2.

"Termination Notice" is defined in Section 3.3.

[Remainder of page intentionally left blank.]

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

LANDLORD:

PACIFIC BAY INN, INC.

By: 

Adam Sparks,
President

CITY/TENANT:

CITY AND COUNTY OF SAN FRANCISCO
a municipal corporation

By: 

Amy Brown,
Director of Property

RECOMMENDED:

By: 

Mitchell H. Katz, M.D.
Director of Health,
Department of Public Health

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: 

Joanne Sakai
Deputy City Attorney

Resolution No. 110-09 dated April 8, 2009

EXHIBIT A
Landlord's Work

Item	Scope of Work	Time frame for completion
Roof covering	Install impermeable roof covering	Completed.
Water meter for commercial space	Install separate water meter or reduce Rent for Tenant's cost of water service to building.	Resolved (Section 4.1(b)).
Mail boxes	Install unit mail boxes	February 28, 2009.

Exhibit B

Form of Commencement Date Confirmation

[Date]

Amy Brown
Director of Property
Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

Re: Acknowledgement of Commencement Date of Lease dated for reference as of _____, 2009, Between Pacific Bay Inn, Inc., as Landlord, and the City and County of San Francisco, as Tenant, for premises known as the Pacific Bay Inn, located at 520 Jones Street, San Francisco, CA 94102-2008 (the "Lease")

Dear Ms. Brown:

This letter will confirm that for all purposes of the Lease, the Commencement Date (as defined in Section 3.1 of the Lease) is May 1, 2009.

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

Very truly yours,

PACIFIC BAY INN, INC.

By: _____
Adam Sparks,
President

Accepted and Agreed:

CITY AND COUNTY OF SAN FRANCISCO
a municipal corporation

By: _____
Amy Brown,
Director of Property

Dated: _____

NOTICE OF COMMENCEMENT DATE

Date: April 23, 2009

Ms. Amy L. Brown
Director of Property
Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

RE: Acknowledgement of Commencement Date of Lease dated for reference as of April 8, 2009, Between Pacific Bay Inn, Inc., as Landlord, and the City and County of San Francisco, as Tenant, , for premises known as the Pacific Bay Inn located at 520 Jones. San Francisco, CA 94102-2008 (the "Lease")


Dear Ms. Brown:

This letter will confirm that for all purposes of the Lease, the Commencement Date (as defined in Section 3.1 of the Lease) is May 1, 2009.

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


Very truly yours,

PACIFIC BAY INN, INC.

By: 
Adam Sparks,
President

Accepted and Agreed:

CITY AND COUNTY OF SAN FRANCISCO
a municipal corporation

By: 
Amy L. Brown
Director of Property

Dated: 4/28/09

EXHIBIT C

Dispute Resolution Procedures

1. Dispute Resolution Procedure. Landlord and Tenant agree to meet informally in good faith to attempt to resolve and settle any dispute over maintenance and repair obligations under the Lease. Should the informal process fail to resolve the matter, Landlord and Tenant agree to choose a mediator who will attempt to mediate the dispute. If mediation fails to resolve the matter, then the parties agree to choose one arbitrator to hear the dispute, whose decision will be binding. Each party will bear its own attorneys' fees and costs, and share equally the cost of the mediator and/or arbitrator.

2. Mediator/Arbitrator Qualifications and Selection. Landlord and Tenant agree to the following:

a. Each mediator or arbitrator chosen to assist in dispute resolution must have at least 5 years' experience in managing multi-unit residential properties in San Francisco; or at least 10 years' legal experience in business and landlord tenant relations.

b. Each neutral must affirm by signed certificate that he or she does not have any pre-existing family (to the 3rd degree); social, financial, or other relationship to Landlord, Tenant, or their respective principals and Agents that would constitute a conflict of interest.

c. Each neutral must enter into a written agreement to provide arbitration services at an hourly rate to be determined jointly by Landlord and Tenant, with approved costs to be reimbursed according to an agreed schedule.