

MASTER LEASE

between

250 Kearny Street, LLC,
as Owner/Landlord

and

CITY AND COUNTY OF SAN FRANCISCO,
on behalf of the Human Services Agency,
as Tenant

For the lease of

250 Kearny Street
San Francisco, California

Dated as of October 1, 2014

[PAGE INTENTIONALLY LEFT BLANK.]

TABLE OF CONTENTS

	<u>Page</u>
1. BASIC LEASE INFORMATION	1
2. PREMISES	3
3. TERM	3
3.1. Term of Lease	3
3.2. Extension Options.....	3
3.3. Termination.....	3
4. RENT	4
4.1. Rent.....	4
4.2. Annual Rent Increases	4
4.3. Fair Market Rent Adjustments for Extended Terms.....	4
4.4. Payment of Real Estate Taxes.....	4
4.5. Payment of Other Taxes.....	4
4.6. Late Charges	4
4.7. Interest.....	4
4.8. Maintenance and Damage Deposit	5
5. USE.....	5
5.1. Permitted Use.....	5
5.2. Manner of Use.....	5
5.3. Tenant's Agents.....	5
6. DELIVERY AND ACCEPTANCE OF PREMISES	5
6.1. Acceptance of the Premises	5
7. ALTERATIONS	5
7.1. Alterations by Tenant.....	5
7.2. Tenant's Property	5
7.3. Alteration by Landlord.....	6
7.4. Title to Improvements.....	6
7.5. Signs/Structures	6
8. REPAIRS AND MAINTENANCE	6
8.1. Landlord's Obligations	6
8.2. Shared Obligations.....	7

8.3.	Tenant's Obligations	8
8.4.	Liens.....	8
8.5.	Loss or Damage	9
8.6.	Dispute Resolution.....	9
9.	UTILITIES AND SERVICES	9
9.1.	Utilities.....	9
9.2.	Services.....	9
9.3.	Disruption in Essential Utilities or Services	9
10.	COMPLIANCE WITH LAWS; PREMISES CONDITION	9
10.1.	Premises Condition	9
10.2.	Landlord's Compliance with Laws; Indemnity	10
10.3.	Tenant's Compliance with Laws	10
11.	SUBORDINATION.....	10
12.	DAMAGE AND DESTRUCTION.....	10
13.	EMINENT DOMAIN	11
13.1.	General	11
13.2.	Total Taking; Automatic Termination	11
13.3.	Partial Taking; Election to Terminate.....	11
13.4.	Rent; Award	12
13.5.	Partial Taking; Continuation of Lease	12
13.6.	Temporary Taking	12
14.	ASSIGNMENT AND SUBLETTING	12
14.1.	General	12
14.2.	Subtenants	13
15.	DEFAULT; REMEDIES	13
15.1.	Events of Default by Tenant	13
15.2.	Landlord's Remedies.....	13
15.3.	Landlord's Default.....	14
15.4.	Tenant's Remedies	14
16.	GENERAL INDEMNITIES	15
16.1.	Tenant's Indemnification.....	15
16.2.	Landlord's Indemnification	15
16.3.	Scope of Indemnity	15

16.4.	Limitation on Landlord's Liability	15
16.5.	Survival of Indemnities	15
17.	INSURANCE.....	15
17.1.	City's Self-Insurance	15
17.2.	Landlord's Insurance	16
18.	ESTOPPEL CERTIFICATES	16
19.	HOLDOVER; SURRENDER OF PREMISES	16
19.1.	Holding Over	16
19.2.	Surrender of Premises	16
19.3.	Status of Subtenants on Surrender	16
20.	Relocation Assistance	16
21.	HAZARDOUS MATERIALS	17
21.1.	Landlord's Representations and Covenants	17
21.2.	Landlord's Environmental Indemnity	17
21.3.	Tenant's Covenants	17
21.4.	Tenant's Environmental Indemnity	17
22.	SPECIAL PROVISIONS.....	18
22.1.	Landlord's Right to Assign	18
22.2.	Transfer of Landlord's Interest.....	18
23.	LANDLORD'S REPRESENTATIONS AND RESERVED RIGHTS.....	18
23.1.	Authority	18
23.2.	Quiet Enjoyment and Title.....	18
23.3.	Bankruptcy	18
23.4.	Right of Entry	18
24.	SPECIAL CITY PROVISIONS	19
24.1.	Applicability of Ordinances	19
24.2.	Lease Approval	19
24.3.	Approvals	19
24.4.	Management.....	19
24.5.	Non-Liability of City Officials, Employees and Agents	19
24.6.	Controller's Certification of Funds	19
24.7.	Nondiscrimination in City Contracts and Benefits Ordinance	20
24.8.	MacBride Principles - Northern Ireland	20

24.9.	Tropical Hardwood and Virgin Redwood Ban	21
24.10.	Preservative-Treated Wood Containing Arsenic	21
24.11.	Resource-Efficient Facilities and Green Building Requirements	21
24.12.	Tobacco Products Advertising Ban	21
24.13.	Prohibition of Alcoholic Beverages Advertising	21
24.14.	Notification of Limitations on Contributions	22
24.15.	Sunshine Ordinance	22
24.16.	Conflicts of Interest.....	22
24.17.	Public Transit Information.....	22
24.18.	Food Service Waste Reduction Ordinance	22
25.	GENERAL PROVISIONS	23
25.1.	Notices	23
25.2.	No Implied Waiver	23
25.3.	Force Majeure	23
25.4.	Amendments	23
25.5.	Standard for Approval.....	23
25.6.	Successors and Assigns.....	24
25.7.	Brokers.....	24
25.8.	Severability	24
25.9.	Governing Law	24
25.10.	Entire Agreement	24
25.11.	Attorneys' Fees.....	24
25.12.	Cumulative Remedies	24
25.13.	Time of Essence	24
25.14.	Counterparts	25
25.15.	Effective Date	25
25.16.	Interpretation of Lease	25
25.17.	Definitions.....	26

LIST OF EXHIBITS:

EXHIBIT A – Premises Floor Plans

EXHIBIT B - Dispute Resolution Procedures

[PAGE INTENTIONALLY LEFT BLANK.]

MASTER LEASE

THIS MASTER LEASE (this "**Lease**"), dated as of October 1, 2014, is by and between 250 Kearny Street, LLC, a California Limited Liability Company, as Owner ("**Landlord**"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, on behalf of the Human Services Agency ("HSA"), as tenant ("**City**" or "**Tenant**"). Refer to **Section 24.17** (Definitions) for definitions and locations of defined terms used in this Lease.

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 Date:	October 1, 2014
Landlord:	250 Kearny Street, LLC
Tenant:	City and County of San Francisco, on behalf of the Human Services Agency
Building (Section 2.1):	250 Kearny Street San Francisco, California
Premises (Section 2.1):	The entire Building, as shown on the Premises Floor Plans attached as <i>Exhibit A</i> , consisting of the residential premises located at 250 Kearny Street, which includes: <ul style="list-style-type: none">○ 136 units○ restrooms and common areas○ storage facilities;○ a portion of the ground floor commercial space; and○ basement.○
Term and Commencement Date (Section 3.1):	Ten (10) years, beginning on the Lease Date
Extension Options (Section 3.2):	One (1) additional five (5)-year term, exercisable by Tenant's notice to Landlord given not less than 365 days in advance, with rent adjusted under Section 4.3.
Rent (Section 4.1):	Annual Rent: \$1,192,080.00, subject to adjustment on October 1 of each year during the Term (each, "Rent Adjustment Date.") under Sections 4.2 and 4.3. Monthly payments of \$161,840.00.

Maintenance and Damage Deposit
(Section 4.8):

None

Permitted Uses (Section 5.1):

Tenant must use the Premises for:

- occupancy as residential rental dwelling units for subtenants
- related administrative services and tenant-serving activities
- supportive services

Utilities (Section 9.1):

Tenant will be responsible for all utilities.

Services (Section 9.2):

Tenant will be responsible for janitorial services, routine maintenance of interior building systems and wrap-around services to subtenants, however Tenant's costs for routine maintenance shall be no greater than indicated in Section 9.2.

Notice Address for Landlord (Section 24.1):

250 Kearny Street, LLC
212 Sutter Street
San Francisco, CA 94108
Att'n: Sam Patel

Key Contact for Landlord:

Sam Patel

Landlord Contact Telephone No.:

(415) 298-1511 or (415) 982-1416 x 25

Notice Address for Tenant (Section 24.1):

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

with a copy to:

Human Services Agency
City and County of San Francisco
170 Otis Street
San Francisco, CA 94103
Attn: David Curto
Fax No.: (415) 431-9270

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:

TBA
San Francisco, CA _____
Phone No.:
Fax No.

2. PREMISES

Landlord leases to Tenant and Tenant leases from Landlord, subject to the provisions of this Lease, the entire building identified in the Basic Lease Information (the "**Building**"), which consists of the residential premises and the clinic premises as indicated in the Basic Lease Information (the "**Premises**") and shown on the floor plans attached as **Exhibit A** (Premises Floor Plans).

3. TERM

3.1. Term of Lease. The Premises are leased for a term (the "**Term**") commencing on October 1, 2014, ("**Commencement Date**"), and ending on the date that is 10 years later (the "**Expiration Date**"), conditioned on approval of this Lease by the Board of Supervisors and the Mayor of the City and County of San Francisco.

3.2. Extension Options. Tenant will have the right to extend the initial Term of this Lease (the "**Extension Options**") for one (1) additional successive five (5) year term (an "**Extended Term**"). The terms and conditions of this Lease will apply during the Extended Term, except that Rent will be adjusted as provided in **Section 4.3** (Fair Market Rent Adjustments for Extended Terms). Tenant may exercise the Extension Options by giving notice to Landlord no later than 365 days before expiration of the initial Term, as applicable (the "**Option Notice**"). Tenant will not have any right to exercise an Extension Option if a Tenant Event of Default has occurred and has not been cured by the Expiration Date. Landlord may reject Tenant's Option Notice solely on the grounds that a Tenant Event of Default remains uncured after any cure period under this Lease has expired. Landlord's notice of rejection to Tenant must cite the Tenant Event of Default upon which a rejection is based. Landlord acknowledges and agrees that Tenant's Option Notice will be subject to approval by the Board and the Mayor, in their respective sole and absolute discretion, within ninety (90) days after Rent is determined under **Section 4.3** (Fair Market Rent Adjustments for Extended Terms). If Tenant extends the Term under this Section, the terms "Term" and "Expiration Date" will mean the Extended Term and the day before the 10th anniversary of the Expiration Date stated in the Basic Lease Information, as applicable.

3.3. Termination.

Tenant will have the right to terminate this Lease in its entirety for any reason upon no less than 180 days' prior notice to Landlord (a "**Termination Notice**"). This Lease, and the parties' rights and obligations under this Lease (except for obligations that expressly survive termination of this Lease), will terminate as of the date indicated in the Termination Notice, which must be at least 180 days after the effective date of the Termination Notice.

4. RENT

4.1. Rent. Tenant will pay to Landlord during the Term the 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 10th 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. Any charges or other amounts Tenant must pay to Landlord under this Lease ("**Additional Charges**") will be considered Rent in determining Landlord's remedies for nonpayment.

4.2. Annual Rent Increases. Rent during the initial Term and Extended Term until the 10th Rent Adjustment Date will be increased by multiplying Rent for the immediately preceding Lease Year by the Adjustment Percentage of two percent (2%). Rent adjustments will be effective on each Rent Adjustment Date during each Term.

4.3. Fair Market Rent Adjustments for Extended Term.

Rent during the first Lease Year of the Extended Term will be adjusted to ninety-five percent (95%) of Fair Market Rent on the first Rent Adjustment Date during the Extended Term.. All calculations will be based on a calendar year of 12 months and a residential unit count of 136.

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 taxes described in **Section 4.5** (Payment of Other Taxes).

4.5. Payment of Other Taxes. During the Term, Tenant is solely responsible for paying all taxes, fees and charges attributable or due to Tenant's use and operation of Premises imposed by any political subdivision of the United States of America, the State of California, 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 paying 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 receiving notice of the payment made by Landlord, with interest at the Interest Rate.

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. This Section will not apply to any Rent that is due between the Commencement Date and the date on which the Board of Supervisors' legislation approving this Lease becomes final.

4.7. Interest. Any Additional Charges that Tenant owes to Landlord that are not paid when due, except late charges, will bear interest at the rate of 3% per annum (the "**Interest Rate**") from the date due until paid. This Section will not apply to any Rent that is due between the Commencement Date and the date on which the Board of Supervisors' legislation approving this Lease becomes final.

4.8. Maintenance and Damage Deposit.

5. Landlord acknowledges that Tenant shall not owe any maintenance or damage deposit.
USE

5.1. Permitted Use. Tenant may use the Premises for the Permitted Uses 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 intends to engage a property manager, who 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. Acceptance of the Premises. Tenant accepts the Premises in its existing physical condition and all recorded matters and Laws, and is subject to passing appropriate inspections by relevant City, State, Federal or San Francisco Housing Authority personnel. Except as provided in this Lease, Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation as to the condition of the Premises or the suitability of the Premises for Tenant's intended use. Tenant represents and warrants that Tenant has made its own inspection of and inquiry regarding the condition of the Premises and is not relying on any representations of Landlord or any broker, except as expressly provided in this Lease.

7. ALTERATIONS

7.1. Alterations by Tenant.

(a) During the Term, Tenant may not make or permit any Alterations to the Premises that cost more than \$10,000 per Alteration without Landlord's prior consent, which Landlord will not unreasonably withhold or delay. Tenant's installation of FF&E or decorative improvements that do not affect the Major Systems or structural integrity of the Building, and repainting and replacing floor coverings at the Premises are not Alterations requiring Landlord's consent. Any Alterations will be made at Tenant's cost in compliance with applicable Laws.

(b) Landlord agrees to cooperate with Tenant in securing building and other permits and authorizations needed in connection with any Alterations. 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 within 10 days after Landlord's written request to Tenant. Landlord will not be required to incur any costs by cooperating with Tenant, nor will Landlord be entitled to any construction or other administrative fee in connection with any Alteration.

(c) 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.

(d) 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 17.1** (City's Self-Insurance), Tenant will require these individuals or entities to obtain and maintain commercially customary and reasonable insurance naming Landlord and its lender(s) (as identified by Landlord) as additional insureds.

7.2. Tenant's Property.

(a) All FF&E, trade fixtures and articles of movable personal property installed in the Premises by or for Tenant's account 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**"). At any time during or at the expiration of the Term, Tenant may remove any of Tenant's Property, but must repair any damage to the Premises resulting from removal. By the Expiration or Early Termination Date, Tenant will remove Tenant's Property from the Premises in accordance with **Article 19** (Holdover; Surrender of Premises).

(b) Landlord acknowledges that some of Tenant's Property may be purchased by secured financing, 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 either to: (i) remove Tenant's Property from the Premises on or before the Expiration or Early Termination Date and repair any damage caused by the removal of Tenant's Property; or (ii) if not so removed, waive any rights it may have had to 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 the property at any time during the Term. Nothing in this Section will require Landlord to subordinate its interest in the Premises.

7.3. Alteration by Landlord. Landlord will use 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 following notice from Tenant.

7.4. 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 without Landlord's consent except to replace it in the performance of Tenant's repair and maintenance obligations or as permitted under this Lease.

7.5. Signs/Structures.

(a) Tenant may erect or post signs on or about the Premises subject to Landlord's prior approval. Landlord reserves the right to review the placement, design, and plan for any sign before its erection or posting and agrees that approval will not be unreasonably withheld or delayed. Tenant's signage must be removed from the Premises upon Lease termination.

(b) Landlord may erect a satellite dish on the roof of the Premises, provided that the installation and operation of the satellite dish does not materially and adversely interfere with the tenantability of the Premises. Landlord may place advertising signs on the northern and western exterior walls of the Premises subject to the Tenant's prior written consent, which consent will not be unreasonably withheld or delayed. Tenant may not be compelled to consent to any advertisement that would in Tenant's reasonable judgment be incompatible with Tenant's use and Subtenants' occupancy of the Premises or City ordinances.

8. REPAIRS AND MAINTENANCE

8.1. Landlord's Obligations.

(a) Landlord, at Landlord's sole cost, and regardless of the cost, must: (i) maintain, replace, repair and keep the following portions of the Premise in water-proof, leak-free, good condition and repair in accordance with all applicable Laws and this Lease: (1) the foundation, including all points of access to the foundation; (2) the roof, including all points of access to the roof and all roof structures such as parapets and utility rooms; (3) trusses and support system, structural walls, all exterior walls and surfaces, including paint, windows, doors leading to the street or public areas and framing for these elements; (4) fire safety/sprinkler

system, including the fire escape structure and dry stand pipes; (5) main sewer and water and gas pipes, and electric wiring up to the point of connection to fixtures (i.e., the pipes connecting to the utility delivery system); (6) the sidewalks; and (7) damage to other parts of the Premises caused by Landlord's failure to meet its obligations under this Section; and (ii) promptly and diligently make any structural seismic, engineering and other upgrades or improvements to the Premises as required by any existing or future Laws.

(b) 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 untenantable. If Landlord allows the condition to continue for 30 days or more after Tenant's use is interrupted, and the condition impairs Tenant's ability to carry on its business in the Premises, Tenant may correct the condition and will be entitled to a rent credit in the amount of 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.

(c) If Tenant's use of any of or access to any part of the Premises is materially and adversely interrupted as a result of 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 undertake immediately upon receipt of Tenant's notice all commercially reasonable steps to correct the condition. If the condition continues for 20 days or more, Rent will be abated to the extent to which the condition renders any portion of the Premises untenantable. If Landlord's default continues for 30 days or more after Tenant's use is interrupted and impairs Tenant's ability to carry on its business in the Premises, then Tenant will have the right to terminate this Lease immediately, unless Landlord 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 and completes the cure within the 60-day period. Nothing in this Section will limit Tenant's rights with respect to any disruption due to casualty under **Article 12** (Damage and Destruction).

8.2. Shared Obligations.

(a) During each Lease Year, Tenant will be solely responsible for: (i) up to \$205,000 of the cost of routine or extraordinary maintenance, replacement or repair ("**R&M costs**"), said cost not to include labor costs for custodial services; and (ii) all Major System R&M costs caused by Tenant's or any Subtenants' gross negligence, willful misconduct or intentional vandalism. During each Lease Year, Landlord will be solely responsible for R&M costs exceeding \$205,000, except and to the extent caused Tenant's or any Subtenants' gross negligence, willful misconduct or intentional vandalism. In determining whether a Subtenant's actions constitute gross negligence, willful misconduct or intentional vandalism, the parties agree to consider that most Subtenants are formerly homeless individuals requiring a high level of supportive services to adapt to living in a housed environment, and, therefore, acts such as disposal of small objects into the plumbing system will not be deemed gross negligence, willful misconduct or intentional vandalism unless the individual's behavior continues after being counseled and warned individually about the possibility of property damage from repeated acts.

(b) Tenant's notice to Landlord of R&M costs exceeding the \$205,000 per Lease Year threshold must attach copies of all proposals that Tenant has secured.

(c) Except as provided in **Subsection (d)**, Landlord must commence any maintenance or repairs for R&M costs above the \$205,000 per Lease Year threshold within

10 days after receipt of Tenant's notice and notify Tenant of Landlord's anticipated schedule for completing the work. 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.

(d) If any R&M costs that will exceed the \$205,000 threshold involves a Major System necessary to maintain the life safety of the Premises, such as the elevator, fire safety/sprinkler system, utilities and plumbing, then Tenant may notify Landlord telephonically or by other electronic means that will provide immediate notice, if followed within 1 business day by written notice. Landlord must commence the required life safety Major System maintenance or repairs within 24 hours of receipt of the electronic notice and take all commercially reasonable measures to ensure that the life safety Major System maintenance or repairs are completed promptly. If Landlord does not commence the life safety Major System maintenance or repairs within the 24-hour period, Tenant may make the required life safety Major Systems maintenance or repairs and will be entitled to a rent credit equal to Tenant's cost of repair.

8.3. Tenant's Obligations.

(a) Except for obligations assigned to Landlord under this Article, 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: (1) routine maintenance and repair of systems and facilities other than Major Systems in the Premises and on all Alterations installed by or on Tenant's behalf in the Premises ("**Non-Major Repairs**"), except Non-Major Repairs or uninsured costs of repair of systems or facilities if the uninsured costs are required following a casualty event such as fire, earthquake, flood, or other act of nature; and (2) R&M costs less than or equal to the \$205,000 annual threshold specified in **Section 8.2(a)** (Shared Obligations), or 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' HVAC system and elevator with licensed maintenance companies; (ii) obtain annual inspections and certifications or permits for the backflow prevention valves for both fire and water supply, the boiler, the hot water heater, and the elevator serving the Premises; and (iii) maintain records of its performance of its obligations under this Section, and will 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. 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.

8.5. Loss or Damage. Except when caused by Landlord's or its Agents' negligence or failure to meet Landlord's obligations under **Section 8.1(a)** (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 for which Landlord is not the contracting party.

8.6. 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 B** (Dispute Resolution Procedures).

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.

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 in the amount of Tenant's cost of repair.

10. COMPLIANCE WITH LAWS; PREMISES CONDITION

10.1. Premises Condition. Landlord represents and warrants to Tenant, to the best of Landlord's knowledge, without any independent investigation, as of the Commencement Date, as follows: (a) the following areas along the path of travel to the Premises comply with Disabilities Laws: (i) the entryway to the Premises; (ii) the ground floor bathroom in the Premises; and (iii) the ground floor common area in the Premises, except the original registration desk and offices located on the ground floor; (b) the Building is an unreinforced masonry building that has been seismically upgraded in compliance with all applicable Seismic Safety Laws; (c) the Premises, the common areas and Major Systems serving the Premises comply with all other applicable Laws, including Life Safety Laws; and (d) 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.

10.2. Landlord's Compliance with Laws. Subject to **Section 8.2** (Shared Obligations) and **Section 10.3** (Tenant's Compliance with Laws), Landlord must maintain, at its cost at all times during the Term, the Property and the Major Systems serving the Premises in compliance with applicable present or future Seismic Safety Laws. Landlord and Tenant agree that Landlord must take any actions necessary to comply with any other future Life Safety Laws.

10.3. Tenant's Compliance with Laws. Tenant must use the Premises during the Term in compliance with applicable Laws. Subject to Landlord's obligations under **Section 10.2** (Landlord's Compliance with Laws), 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. Subject to **Section 8.2** (Shared Obligations) and **Section 10.2** (Landlord's Compliance with Laws), Tenant must maintain, at its cost at all times during the Term, the Premises in compliance with applicable present or future Disabilities Laws and Life Safety Laws, but only to the extent that compliance is required due to Tenant's use and operation of the Premises, or required solely because of Tenant's Alterations 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. The agreement must provide that, 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: (x) the successor landlord will recognize this Lease and will not disturb Tenant's possession of the Premises under this Lease except as provided in this Lease; and (y) 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, or any damage caused by the gross negligence or willful misconduct of Tenant or its Agents or Subtenants.

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 untenable, 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 in the amount of 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 after 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, and 1942, or under any similar Law, to the extent the statutory rights are 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 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 untenable 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 untenable 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 untenable 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 (calculated separately for the residential and clinic portions of the Premises); 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. 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.

(a) During the Term, Tenant will have the right to sublet the units in the Premises to Subtenants. Tenant acknowledges that up to six (6) former occupants of the Premises shall be permitted to return to the Premises as Subtenants, and shall pay a Subtenant rental rate equivalent to their current rental rate, such rate information to be provided by Landlord to Tenant by no later than October 1, 2014. Said former occupants shall accept any of the units designated by Tenant, at Tenant's sole discretion, within the Premises as suitable new residences. 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. Tenant's subleases with Subtenants ("**Subleases**") will advise all Subtenants that Tenant is master leasing the Premises under this Lease, and such advise will include a statement of the master lease rate paid by Tenant to Landlord.

(b) Tenant's Subleases for Subtenants receiving rent subsidies from City's program(s) will specify the extent to which City subsidizes their rent payments, and advise subsidized Subtenants that, upon expiration or earlier termination of this Lease, subsidized Subtenants who still occupy units at the Premises: (i) will become direct tenants of Landlord without the rent subsidy; and (ii) each Subtenant's total rent charges for a particular unit will be subject to adjustment to the amount provided in **Section 19.3** (Status of Subtenants on Surrender).

(c) If applicable, Tenant's Subleases for Subtenants who do not receive rent subsidies from City's program(s) will advise those Subtenants that, upon expiration or earlier termination of this Lease, Subtenants who still occupy units at the Premises: (i) will become direct tenants of Landlord; and (ii) each Subtenant's total rent charges for a particular unit will be subject to adjustment to the amount provided in **Section 19.3** (Status of Subtenants on Surrender).

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 after 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 90 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:

(a) Landlord will have the right to terminate Tenant's right to possession of the Premises by any lawful means and to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including:

(i) The worth at the time of award of the unpaid Rent earned at the time of termination; plus

(ii) The worth at the time of award of the amount by which the unpaid Rent that would have been earned after termination until the time of award exceeds the amount of any rental loss that Tenant proves could have been reasonably avoided; plus

(iii) The worth at the time of award of the amount by which the unpaid Rent for the balance of the Lease Term after the time of award exceeds the amount of the loss of Rent that Tenant proves could be reasonably avoided; plus

(iv) Any other amounts necessary to compensate Landlord for the detriment proximately caused by Tenant's default, or that, in the ordinary course of events, would likely result, including attorneys' fees and costs of suit, the costs of carrying the Premises, such as repairs, maintenance, taxes and insurance premiums, utilities, security precautions, and the reasonable costs and expenses incurred by Landlord in (1) retaking possession of the Premises; (2) cleaning and making repairs necessary to return the Premises to good condition and preparing the Premises for reletting; (3) removing, transporting, and storing any of Tenant's property left at the Premises (although Landlord will have no obligation so to do); and (4) reletting the Premises, including brokerage commissions, advertising costs, and attorneys' fees. Landlord's efforts to mitigate the damages caused by Tenant's breach of the Lease will not waive Landlord's rights to recover damages upon termination.

(v) The "**worth at the time of award**" of the amounts referred to in **clauses (i) and (ii)** above will be computed by allowing interest at an annual rate equal to the lesser of 10% per annum or the maximum non-usurious rate Landlord is permitted by Law to charge. The "**worth at the time of award**" of the amount referred to in **clause (iii)** will be computed by discounting the amount at the rate of 1% above the discount rate of the Federal Reserve Bank of San Francisco at the time of award.

(b) Landlord will have the right to maintain Tenant's right to possession, in which case this Lease will continue in effect whether or not Tenant has abandoned the Premises, and Landlord will be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover Rent and Additional Charges as they become due.

(c) If Tenant has abandoned the Premises, Landlord will have the option of (i) retaking possession of the Premises and recovering from Tenant the amounts specified in **Subdivision (a)**; or (ii) proceeding under **Subdivision (b)**.

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. Tenant will have all rights and remedies available under Law or granted under this Lease, including:

(a) 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 to the extent to which the default renders all or any portion of the Premises untenable.

(b) 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.

16. GENERAL INDEMNITIES

16.1. Tenant's Indemnification. In addition to its indemnification obligations under other provisions of this Lease, 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 during the Term of this Lease; (c) arising from Tenant's occupancy or use of the Premises, 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; or (d) reasonably and actually incurred by Landlord as a direct result of Tenant's holding over.

16.2. Landlord's Indemnification. In addition to its indemnification obligations under other provisions of this Lease, 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; (b) caused by any gross negligence or willful misconduct of Landlord or its Agents in, on or about the Premises or the Property; (c) by Subtenants asserted against Tenant or its Agents that arise after the Expiration or Early Termination Date, unless and to the extent any claim results from or relates to rights claimed by a Subtenant under any Sublease or any other covenant or agreement made by Tenant to any Subtenant; and (d) arising from any assertion that would interfere with Tenant's right to quiet enjoyment of the Premises under this Lease.

16.3. 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. Each party specifically acknowledges and agrees that, with respect to each of the indemnities contained in this Lease, the indemnitor has an immediate and independent obligation to defend the indemnitees from any claim that actually or potentially falls within the indemnity provision even if the allegation is or may be groundless, fraudulent or false, and the obligation arises at the time the claim is tendered to the indemnitor by the indemnitee and continues at all times until finally resolved. Whether or not a judicial or nonjudicial proceeding is initiated, the indemnitor will have the right, at its sole option, to defend the indemnitee and its Agents by attorneys selected by the indemnitor, which in Tenant's case may include the City Office of the City Attorney, other attorneys, or both. The indemnitor will have the right to control the defense and to determine the settlement or compromise of any action or proceeding, and the indemnitee will have the right, but not the obligation, to participate in its defense at its sole cost.

16.4. Limitation on Landlord's Liability. Landlord's liability for the performance of its duties and obligations under this Lease is limited to Landlord's interest in the Property, and neither Landlord nor its partners, shareholders, officers, trustees or other principals will have any personal liability under this Lease. The limitation of Landlord's liability under this Section will not apply to the extent that: (a) Landlord receives insurance proceeds applicable to Landlord's obligations under this Lease; and (b) Landlord's liability which results from any fraudulent act on Landlord's part.

16.5. Survival of Indemnities. Termination of this Lease will not affect the right of either party to enforce any and all indemnities under this Lease.

17. INSURANCE

17.1. City's Self-Insurance. City maintains a program of self-insurance. Landlord agrees that neither Tenant nor its property manager may be required to carry any third-party comprehensive general liability insurance or other insurance with respect to this Lease. Tenant assumes the risk of damage to any of Tenant's Property.

17.2. Landlord's Insurance. At all times during the Term, Landlord must keep the Premises (excluding the land upon which it is located) 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 any part of the Premises, to the extent covered by Landlord's property insurance.

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. HOLDOVER; SURRENDER OF PREMISES

19.1. Holding Over. Should Tenant hold over in possession of the Premises after the expiration of the Term, the holding over may not be deemed to extend the Term or renew this Lease, but Tenant will continue as a month-to-month tenant until either party terminates the tenancy by giving the other party at least 30 days' prior written notice of termination. A holdover tenancy will be on all the terms and conditions set forth in this Lease, except Rent, which will be payable as follows: (a) if Tenant is holding over with Landlord's consent, monthly Rent will be the Rent in effect during the last month of the Term or any other rental as Landlord and Tenant may mutually agree in writing as a condition to Landlord's consent; or (b) if Tenant is holding over without Landlord's consent, monthly Rent will be 125% of the monthly Rent in effect during the last month of the Term.

19.2. Surrender of Premises. On the Expiration or Early Termination Date, Tenant must 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 or Early Termination Date, Tenant must 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 Early Termination Date.

19.3. Status of Subtenants on Surrender. Landlord and Tenant agree that, upon the Expiration or Early Termination Date: (a) any Existing Subtenants will become direct tenants of Landlord automatically; (b) Tenant will transfer to Landlord any Existing Subtenant's security deposits held by Tenant; (c) the rent chargeable by Landlord to Existing Subtenants whose rents are subsidized by any program may not be adjusted beyond what is allowed under the Rent Control Ordinance.

19.4. Relocation Assistance.

(a) Tenant will use its best efforts to provide early notification of, and to relocate Existing Subtenants who do not wish to become direct tenants of Landlord before the Expiration or Early Termination Date.

20. HAZARDOUS MATERIALS

20.1. Landlord's Representations and Covenants. Landlord represents and warrants to Tenant that, to the best of Landlord's knowledge, without any independent inquiry, and except as otherwise disclosed, the following statements are true and correct as of the Commencement Date: (a) the Property is not in violation of any Environmental Laws; (b) the Property is not now and has 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, restaurant/retail, or residential use, which limited use has been and is in compliance with Environmental Laws; (c) the Property does not consist of any landfill or contain any underground storage tanks; (d) the Property does not consist of any non-encapsulated asbestos-containing materials or building materials that contain any other Hazardous Material; (e) the Property does not contain any lead-based paints that have not been painted over by non lead-based paint; (f) no Release of any Hazardous Material exists or has occurred in, on or under the Property; and (g) the Property is not subject to any claim by any Environmental Regulatory Agency or third party related to the Release of any Hazardous Material, or any inquiry by any Environmental Regulatory Agency with respect to the presence of Hazardous Material in, on, or under the Property, or the migration of Hazardous Material from or to other real property. In performing its obligations under this Lease, Landlord agrees to comply with all Environmental Laws applicable to the obligations that could affect the health, safety and welfare of Tenant'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 other indemnity obligations under this Lease, Landlord must indemnify Tenant and its Agents for a period of 3 years after the Expiration Date against any and all Claims arising: (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 Property, unless Tenant or its Subtenants or 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. If 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 or its Subtenants or 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 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, 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 Environmental Regulatory Agency resulting from a Hazardous Materials Violation. Tenant's obligation under this Section will not include any Claims resulting

from the non-negligent aggravation by Tenant or its Agents, Invitees or Subtenants of physical conditions of the Premises existing before Tenant's occupancy.

21. SPECIAL PROVISIONS

21.1. Landlord's Right to Assign. Landlord will have the right to transfer its interest in the Property, the Premises or the Lease to: any other financially responsible person or entity, subject to the conditions set forth in this Article. Following a transfer, Landlord will be relieved of any obligations accruing under this Lease from and after the date of the transfer, provided that Landlord has provided timely notice to Tenant of the name and address of Landlord's successor(s) and a copy of an executed contract under which the transferee assume all of Landlord's obligations under this Lease.

21.2. Intentionally Deleted.

21.3. Intentionally Deleted.

(a) Intentionally Deleted.

22. LANDLORD'S REPRESENTATIONS AND RESERVED RIGHTS

22.1. 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.

22.2. Quiet Enjoyment and Title. Landlord covenants that Tenant, upon paying the Rent and performing its other obligations under this Lease, 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.

22.3. Bankruptcy. Landlord represents and warrants 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 for composition of indebtedness or for the reorganization of debtors, and, to the best of Landlord's knowledge, no filing is threatened. Landlord and Tenant agree that Tenant's leasehold estate 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 an insolvency 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.

22.4. Right of Entry. 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 48 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.

23. SPECIAL CITY PROVISIONS

23.1. Applicability of Ordinances.

(a) Tenant represents and warrants that: (i) as of the Commencement Date and during the Term, each of the residential units in the building will be exempt from the Residential Rent Stabilization and Arbitration Ordinance (S.F. Admin. Code Ch. 37) (the "**Rent Control Ordinance**"), since the rents for those units will be "controlled or regulated by [a] governmental unit, agency or authority" under the Rent Control Ordinance; and (ii) in its capacity as tenant under this Lease, Tenant will not initiate any action that would change the designation of units in the Premises as "tourist units" or "residential units" in effect on the Commencement Date, as those terms are defined in the Residential Hotel Unit Conversion and Demolition Ordinance (S.F. Admin. Code Ch. 41).

(b) Landlord acknowledges that: (i) Tenant cannot assure Landlord that Tenant's representations in this Section will remain valid throughout the Term, as Tenant, in its capacity as tenant under this Lease, may in no way limit the discretion of the Board of Supervisors in considering or approving any amendments to the ordinance; and (ii) each of the units occupied by an Existing Subtenant on the Expiration or Early Termination Date will be subject to the Rent Control Ordinance.

23.2. Lease Approval. Landlord acknowledges and agrees that no officer or employee of City has authority to commit City to this Lease unless and until the Board has duly adopted a resolution approving this Lease, and the Mayor has signed the resolution. Therefore, City's obligations or liabilities under this Lease are contingent, and this Lease will be null and void unless the Mayor and the Board approve this Lease, in their respective sole and absolute discretion, and in accordance with all applicable Laws. Approval of this Lease by any City department, commission or agency may not be deemed to imply that the resolution will be adopted or create any binding obligations on City.

23.3. 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, or his or her designee, unless otherwise provided in this Lease, subject to any applicable limitations in City's Charter and Administrative Code.

23.4. 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 arrangement. In the event of any inconsistency between the terms of this Lease and any management contract, the terms of this Lease will control.

23.5. Non-Liability of City Officials, Employees and Agents. No elective or appointive board, commission, 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.

23.6. 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 cost 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.

23.7. 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)** above. 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 must 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 section 12.B2(b) of the San Francisco Administrative Code.

(d) **HRC Form:** As a condition to this Lease, Landlord must execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (HRC 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 chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of property to City are incorporated in this Section by reference and made a part of this 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 such chapters. Landlord understands that under section 12B.2(h) of the San Francisco Administrative Code, 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.

23.8. 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.

23.9. Tropical Hardwood and Virgin Redwood Ban. Except as expressly permitted by the application of sections 802(b) and 803(b) of the San Francisco Environment Code, neither Landlord nor any of its contractors must 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 chapter 8 of the San Francisco Environment Code, 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.

23.10. 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 section 1304 of the Environment Code. 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.

23.11. Resource-Efficient Facilities and Green Building Requirements. Landlord acknowledges that City has enacted San Francisco Environment Code sections 700 to 710 relating to resource-efficient buildings and green building design requirements. Landlord hereby agrees to comply with all applicable provisions.

23.12. 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.

23.13. Prohibition of Alcoholic Beverages Advertising. Landlord acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Premises. For purposes of this Section, "**alcoholic beverage**" is defined as set forth in California Business and Professions Code section 23004, and does not include cleaning solutions, medical supplies and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to: (a) communicate the health hazards of alcoholic beverages; (b) encourage people not to drink alcohol or to stop drinking alcohol; or (c) provide or publicize drug or alcohol treatment or rehabilitation services.

23.14. Notification of Limitations on Contributions. Through its execution of this Lease, Landlord acknowledges that it is familiar with section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with City for the selling or leasing 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 award the contract.

23.15. Sunshine Ordinance. In accordance with section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between City and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided that is covered by this Section will be made available to the public upon request.

23.16. Conflicts of Interest. Through its execution of this Lease, Landlord acknowledges that it is familiar with the provisions of section 15.103 of the San Francisco Charter, article III, chapter 2 of City's Campaign and Governmental Conduct Code, and sections 87100 et seq. and sections 1090 et seq. of the Government Code of the State of California, 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.

23.17. Public Transit Information. Landlord will establish and carry on 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 such facilities, all at Landlord's sole cost.

23.18. 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, which 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.

24. GENERAL PROVISIONS

24.1. Notices. Except as otherwise specifically provided in this Lease, any notice given under this Lease must be in writing and be given by personal delivery, by express mail or commercial overnight 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 business day after the date of deposit if sent by express mail or overnight courier, or on the date personal delivery is made. In any case where delivery is attempted but refused, notice will be deemed delivered on the date of refusal.

24.2. 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 this Lease.

24.3. Force Majeure. The occurrence of any of the following events will excuse, for the duration of the event, performance of any obligation under this Lease if rendered impossible to perform: 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. Performance will be excused only if the party to be excused has provided notice to the other party within 30 days after the occurrence or commencement of the event or events.

24.4. 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.

24.5. Standard for Approval. 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.

24.6. 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.

24.7. 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 therefor. If 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.

24.8. 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.

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

24.10. Entire Agreement. The parties intend this Lease (including all of the attached exhibits, which are made a part of this Lease) to 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 whatsoever (including prior drafts and changes) may be introduced in any judicial, administrative or other legal proceeding involving this Lease.

24.11. 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.

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

24.13. 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.

24.14. 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.

24.15. Effective Date. The date on which this Lease will become effective is the date upon which: (a) City's Board of Supervisors and Mayor, in their sole and absolute discretion, adopt and approve, respectively, a resolution approving this Lease in accordance with all applicable laws; and (b) this Lease is duly executed by the parties.

24.16. Interpretation of Lease.

(a) References in this Agreement to Tenant's acts or omissions will mean acts or omissions by Tenant and its Agents and Invitees unless the context requires otherwise.

(b) Whenever an exhibit or schedule is referenced, it means an attachment to this Agreement unless otherwise specifically identified. All exhibits and schedules are incorporated in this Agreement by reference.

(c) Whenever a section, article or paragraph is referenced, it refers to this Agreement unless otherwise specifically provided. The captions preceding the articles and sections of this Agreement and in the table of contents have been inserted for convenience of reference only and must be disregarded in the construction and interpretation of this Agreement. Wherever reference is made to any provision, term, or matter "in this Agreement," "in this Agreement" or "hereof" or words of similar import, the reference will be deemed to refer to any reasonably related provisions of this Agreement in the context of the reference, unless the reference refers solely to a specific numbered or lettered section, subdivision, or paragraph of this Agreement.

(d) References to all Laws, including specific statutes, relating to the rights and obligations of either party mean the Laws in effect on the effective date of this Agreement and as they are amended, replaced, supplemented, clarified, or superseded at any time during the term of this Agreement or while any obligations under this Agreement are outstanding, whether or not foreseen or contemplated by the parties.

(e) The terms "include," "included," "including" and "such as" or words of similar import when following any general term, statement, or matter may not be construed to limit the term, statement, or matter to the specific items or matters, whether or not language of non-limitation is used, but will be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of the term, statement, or matter, and will be deemed to be followed by the phrase "without limitation" or "but not limited to."

(f) This Agreement has been negotiated at arm's length between persons sophisticated and knowledgeable in the matters addressed. In addition, each party has been represented by experienced and knowledgeable legal counsel, or has had the opportunity to consult with counsel. Accordingly, the provisions of this Agreement must be construed as a whole according to their common meaning in order to achieve the intents and purposes of the parties, without any presumption (including a presumption under California Civil Code § 1654) against the party responsible for drafting any part of this Agreement.

(g) The party on which any obligation is imposed in this Agreement will be solely responsible for paying all costs incurred in performing the obligation, unless the provision imposing the obligation specifically provides to the contrary.

(h) Whenever required by the context, the singular includes the plural and vice versa, the masculine gender includes the feminine or neuter genders and vice versa, and defined terms encompass all correlating forms of the terms (e.g., the definition of "waive" applies to "waiver," waived, "waiving").

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

"**Additional Charges**" is defined in Section 4.1.

"**Adjustment Percentage**" means the percentage increase 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.

"**alcoholic beverage**" is defined in Section 23.13.

"**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**" means the building in which the Premises are located, as described in Article 2.

"**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 expense (including reasonable attorneys' fees and costs of investigation with respect to any claim, demand or action).

"**clinic premises**" means a portion of the Premises as described in the Basic Lease Information and shown on Exhibit A.

"**Clinic Termination Notice**" is defined in Section 3.3(b).

"**Commencement Date**" means the date on which the Term commences as provided in Section 3.1.

"**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.

"**Early Termination Date**" is defined in Section 4.8(b).

"**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.

"Environmental Regulatory Agency" means any federal, state, local regulatory agency or political subdivision, including the United States Environmental Protection Agency, the California Environmental Protection Agency, the California Department of Toxic Substances Control, the Regional Water Quality Control Board, the San Francisco Department of Public Health and any other regulatory body with the authority to regulate Hazardous Materials.

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

"Existing Subtenants" are those households occupying units at the Premises on the date specified in this Lease.

"Expiration Date" is defined in Section 3.1.

"Extended Term" is defined in Section 3.2.

"Extension Options" is defined in Section 3.2.

"Fair Market Rent" means the prevailing market rental rate for space of comparable size and location to the Premises in other recently leased buildings similar in age, seismic condition, location and quality to the Premises, taking into account all relevant factors, 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.

"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 Material Violation" is defined in Section 20.4.

"HCO" is defined in Section 21.4(a).

"HRC" is defined in Section 23.7(d).

"HUD" means the United States Department of Housing and Urban Development, or any successor division or agency of the federal government.

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

"Interest Rate" is defined in Section 4.7.

"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 preamble.

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

"**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 agency 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 all Laws 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).

"**Maintenance and Damage Deposit**" is defined in Section 4.8(a).

"**Major Systems**" means the elevator, HVAC (including the boiler), plumbing (other than the main sewer and water and gas pipes), and electrical systems of the Premises.

"**New Subtenants**" are Subtenants who enter into Subleases with Tenant during the Term.

"**Non-Major Repairs**" is defined in Section 8.3(a).

"**Non-Qualifying Subtenants**" is defined in Section 19.4(a).

"**Notification**" is defined in Section 21.2(a).

"**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.

"**Premises**" is defined in Article 2 and shown on Exhibit A.

"**Premises Sublease**" is defined in Section 14.1.

"**preservative-treated wood containing arsenic**" is defined in Section 23.10.

"**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.

"**Property**" means the Building, including the Premises, and the underlying land within Landlord's legal parcel for the Premises.

"**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 rent specified in the Basic Lease Information and described further in Section 4.1.

"Rent Adjustment Date" is defined in the BLI.

"Rent Control Ordinance" means San Francisco Administrative Code Chapter 37, as it may be amended.

"Repair Period" is defined in Article 12.

"residential premises" means a portion of the Premises as described in the Basic Lease Information and shown on Exhibit A.

"R&M costs" is defined in Section 8.2(a).

"saltwater immersion" is defined in Section 23.10.

"Seismic Safety Laws" means all Laws relating to seismic safety.

"Subleases" is defined in Section 14.2(a).

"Subtenant Costs" is defined in Section 19.4(c).

"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 preamble.

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

"Tenant's Property" is defined in Section 7.2(a).

"Term" is defined in Section 3.1.

"Termination Notice" is defined in Section 3.3(a).

"uninsured costs" is defined in Section 8.1(c).

"worth at the time of the award" is defined in Section 15.2(a)(v).

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

LANDLORD:

250 Kearny Street, LLC

By: _____
Suresh R. Patel, Member

CITY:

CITY AND COUNTY OF SAN FRANCISCO
a municipal corporation

By: _____
John Updike,
Director of Property

RECOMMENDED:

By: _____
Director,
Human Services Agency

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Deputy City Attorney

EXHIBIT A

Premises Floor Plans

(Consisting of _____ page(s), to be attached.)

Note: Floor plans should be marked to show residential premises and clinic premises.

EXHIBIT B

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.