

**THIRD AMENDMENT TO LEASE
[DPH]
EXTENSION AND PARTIAL SUBSTITUTION OF PREMISES**

THIS THIRD AMENDMENT TO LEASE [DPH] EXTENSION AND PARTIAL SUBSTITUTION OF PREMISES (the “**Third Amendment**”) is made and entered into as of March 22, 2013, by and between **BRCP 1390 Market, LLC**, a Delaware limited liability company (“**Landlord**”), and the **City and County of San Francisco**, a municipal corporation (“**Tenant**” or “**City**”).

RECITALS

- A. Calfox, Inc., as managing agent for Polk Market Co. (“**Original Landlord**”), as landlord, and City, as tenant, entered into a certain Office Lease, dated September 9, 1996, for premises in the building known as Fox Plaza, located at 1390 Market Street, San Francisco, California (the “**Building**”), which lease was amended by (i) that certain First Lease Amendment, dated as of November 23, 2003, between FP 2001 Co., successor-in-interest to Original Landlord, and City, and (ii) that certain Second Amendment to Lease, dated June 26, 2006, between API Fox Plaza, LLC, successor-in-interest to FP 2001 Co., and City (the “**Second Amendment**”). The lease, as so amended, is referred to herein as the “**Lease**.” Landlord is successor-in-interest to API Fox Plaza, LLC’s interest in the Lease. By letter dated December 18, 2007, City exercised an option to extend the term of the Lease through November 30, 2013.
- B. Pursuant to the terms of the Second Amendment, certain premises within the Building commonly known as Suite 410 were substituted for the premises commonly known as Suite 230, originally demised under the Lease. The premises presently demised under the Lease (the “**Premises**”) is comprised of the following:

Suite	Area (RSF)	Comments
210	14,549	Net of plug load electricity
410	3,247	Fully serviced
820 - 822	2,759	Fully Serviced
910	4,971	Fully Serviced
Subtotal Office	25,526	
Storage C, D, & E (the “ Storage Premises ”)	413	Garage level
Total Premises	25, 939	

- C. The Term of the Lease is presently scheduled to expire on November 30, 2013. City has exercised the final option to extend the Term of the Lease for an additional five (5) years, as provided in Paragraph 4.C. of the Lease, and City and Landlord have negotiated in good faith to establish the new Base Rent payable for the extension term.

- D. Landlord is the current owner of Landlord's Commercial Parcel of the Building (as defined in the Second Amendment to Lease), which does not include the Building's garage, however Landlord has arranged for City's use of the Storage Premises in the garage.
- E. Landlord and City presently desire to amend the Lease to: (i) extend the Term of the Lease through November 30, 2018, (ii) provide for the substitution of Suite 810 for Suite 820 - 822 following the substantial completion of improvements to be constructed by Landlord in Suite 810 pursuant to space plans approved by City, (iii) revise the Base Rent payable under the Lease, (iv) add an additional option to extend the Term, (v) permit Landlord, at its cost, to relocate the Storage Premises into storage space within Landlord's Commercial Parcel, and (vi) make certain other modifications to the Lease more particularly set forth below.

AMENDMENT

NOW THEREFORE, in consideration of the mutual agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

1. **LEASE EXTENSION.** Landlord and City hereby agree to extend the Term for an additional five (5) year period (the "**Third Extended Term**"), commencing on December 1, 2013, and expiring November 30, 2018. Upon commencement of the Third Extended Term, all references in the Lease to the Term shall mean the Term as extended by the Third Extended Term.

2. **BASE RENT AND BASE YEAR.** Commencing on December 1, 2013, and continuing throughout the Third Extended Term, the Monthly Base Rent payable under the Lease shall be \$76,362.79 – calculated as follows:

<u>Area</u>	<u>Sq. Ft.</u>	<u>Base Annual Rent PSF</u>	<u>Base Monthly Rent</u>
Storage Premises	413 SF	\$10	\$344.17
Suite 210	14,549 SF	\$35.35	\$42,858.93
Suite 410	3,247 SF	\$36.25	\$ 9,808.65
820-822	2,759 SF	\$36.25	\$ 8,334.48
910	4,971 SF	\$36.25	\$33,159.69
Total Office and Storage	25,939 SF		\$76,362.79

Commencing on December 1, 2013, the Base Year and Base Tax Year for the calculation of Additional Rent under Paragraph 6.B. of the Lease shall be the calendar year 2014.

3. **ADDITIONAL EXTENSION OPTION.** Effective as of the Effective Date of this Third Amendment, as defined in Section 17 below, Paragraph 4.C. of the Lease shall be deleted and the following provisions shall be substituted therefor:

“C. Extension Option. City shall have one (1) option to extend the Term for an additional term (the “**Fourth Extended Term**”) of five (5) years, commencing on December 1, 2018 (“**Extension Option**”). Upon commencement of the Fourth Extended Term, all references in the Lease to the Term shall mean the Term as extended by the Fourth Extended Term.

(a) City’s lease of the Premises during the Fourth Extended Term shall be on all of the terms and conditions set forth in the Lease, except that (i) the Base Monthly Rental shall be adjusted to ninety-five percent (95%) of Market Rental Value in accordance with Paragraph 6.C. hereof, and (ii) the Base Year and the Base Tax Year, for purposes of determining City’s Additional Rent, shall be calendar year 2019.

(b) Landlord acknowledges and agrees that City’s notice of its intent to exercise the Fourth Extension Option shall be subject to enactment of a resolution by the Board of Supervisors and the Mayor, in their respective sole and absolute discretion, approving and authorizing the same no later than ninety (90) days after the date such notice of exercise is given. If such approval and authorization is not received by Landlord on or before such date, the Fourth Extension Option shall terminate and City shall have no further option to extend the Term.”

4. **DETERMINATION OF MARKET RENTAL VALUE FOR EXTENSION TERM.** Effective as of the Effective Date of this Third Amendment, the second and third grammatical paragraphs of Paragraph 6.C. of the Lease shall be deleted and the following provisions shall be substituted therefor:

“No later than December 1, 2017, Landlord shall provide City with a preliminary notice of Landlord’s good faith best estimate of the Base Monthly Rental for the Fourth Extended Term. Such Landlord’s estimate of the Base Monthly Rental will be provided to City for City’s internal budgeting program only. Such estimate shall not be binding upon either City or Landlord.

Then Landlord, not less than six (6) months before the commencement of the Fourth Extended Term, shall submit to City in writing Landlord’s determination of Market Rental Value for the Premises for the Fourth Extended Term. The amount of Market Rental Value submitted by Landlord shall become the monthly rental for the Fourth Extended Term thirty (30) days after Landlord gives said determination in writing to City unless before expiration of said thirty (30) day period City gives written notification to Landlord of City’s determination of Market Rental Value. Such dispute shall be resolved as follows:”

5. **SUBSTITUTION OF SUITE 810 PREMISES FOR SUITE 820-822 PREMISES.**

(a) Substitution; Suite 810 Premises. Beginning on the date the Leasehold Improvements are Substantially Completed (as defined in Section 6) (the “**Substitution Date**”), as provided in Section 6 below of this Third Amendment, those premises commonly known as Suite 810, shown outlined on the attached Exhibit A-3 (the “**Suite 810 Premises**”), shall be

added to the Premises under the Lease and that portion of the existing Premises commonly known as Suite 820 -822 shall be deleted from the Premises under the Lease.

(b) Base Rent; Modification of Base Rent. The parties acknowledge that the Suite 810 Premises is comprised of 4,646 rentable square feet of space and Suite 820-822 is comprised of 2,759 rentable square feet of space. City shall pay Base Rent in the amount of \$14,789.77 per month (\$38.20 psf annually) for the Suite 810 Premises. Effective as of the Substitution Date the Base Rent payable under the Lease shall be modified by (i) deleting the Base Rent for Suite 820-822 (in the amount \$7,451.60 per month through November 30, 2013 and \$8,334.48 per month commencing December 1, 2013) and adding the \$14,789.77 Base Rent payable for the Suite 810 Premises.

(c) Confirming Amendment. Upon the Substantial Completion of the Suite 810 Tenant Improvements in accordance with this Third Amendment, Landlord and Tenant shall to execute an amendment to the Lease confirming Substitution Date and the Base Rent payable. Execution of such confirming amendment shall be ministerial, and shall not require the prior approval of the City's Board of Supervisors, although it shall be subject to the prior written approval of City's Director of Real Estate and the City Attorney.

6. TENANT IMPROVEMENTS FOR SUITE 810 PREMISES. Landlord, through its general contractor reasonably approved by City, shall perform the work and make the installations in the Suite 810 Premises at Landlord's sole cost (subject to the limitations set for below) pursuant to the Construction Documents (as defined in this Section below) approved by City, and in accordance with the provisions of this Section below. Such work and installations are referred to as the "**Leasehold Improvement Work**" and "**Leasehold Improvements.**"

(a) Plans and Specifications. Before the reference date of this Third Amendment, Landlord has caused its architect or space planner approved by City to prepare and submit to City for its approval an architectural plan, power and signal plan, reflected ceiling plan, floor plans, and tenant finish specifications for the Leasehold Improvements, based on City's program requirements for use of the Suite 810 Premises, and in form and detail sufficient for purposes of contractor pricing. City hereby approves the plans and specifications dated February 5, 2013 (the "**Pricing Plans**"), prepared by Weske Associates, copies of which are attached hereto as Exhibit C-3.

Immediately following the Effective Date of this Amendment (as defined in Section 17 hereof), based on the approved Pricing Plans and any adjustments authorized by City, Landlord shall cause final plans, specifications and working drawings for the Leasehold Improvements to be prepared, in conformity with the requirements hereof. Landlord shall submit a copy of such final plans, specifications and working drawings to City within sixty (60) days after the Effective Date. Such final working drawings and specifications shall be subject to City's approval, which approval shall not be unreasonably withheld or delayed. If City disapproves such final working drawings and specifications, or any portion thereof, then City shall promptly notify Landlord thereof and of the revisions that City reasonably requires in order to obtain City's approval. As soon as reasonably possible thereafter, but in no event later than thirty (30) days after City's notice, Landlord shall submit to City final plans, specifications and working drawings incorporating the revisions required by City. Such revisions shall be subject

to City's approval, which shall not be unreasonably withheld or delayed. The final plans, specifications and working drawings for the Leasehold Improvements approved by City shall be referred to as the "**Final Construction Documents.**" If, following approval, the Director of Property for the City requests any change, addition or alteration in the Final Construction Documents, Landlord shall cause its architect to prepare plans with respect thereto. As soon as practical, Landlord shall notify City of the cost that would be incurred by reason of such change, addition or alteration. If City approves the cost thereof in writing within five (5) days of receipt from Landlord such approved cost shall be referred to herein as the "**Approved Change Cost**" and (i) Landlord's contractor shall proceed with such change, addition or alteration as soon as reasonably practical thereafter, and (ii) City shall pay for any increase in the cost of the Leasehold Improvements resulting from such change, alteration or addition up to the Approved Change Cost and shall not have a right to terminate pursuant to Section 6(b) below with respect to any such changes, alterations or additions. If City does not approve such cost within the above mentioned five (5) day period, construction shall proceed in accordance with the original completed and approved Final Construction Documents and City shall pay the reasonable and actual architect fees for designing the changes, up to a total of Five Hundred Dollars (\$500).

(b) Permits; Right to Terminate Provisions Regarding Substitution. Landlord shall secure and pay for any building and other permits and approvals, government fees, licenses and inspections necessary for the proper performance and completion of the Leasehold Improvement Work shown on the approved Final Construction Documents. Promptly following City's approval of the Final Construction Documents, Landlord shall apply for any permits, approvals, including but not limited to the City's Mayor's Office of Disability or licenses necessary to complete such construction and shall provide copies to City promptly following receipt thereof. Notwithstanding the foregoing, in the event that Landlord, after using commercially reasonable efforts, is unable to obtain all necessary permits, approvals and licenses required to construct the Leasehold Improvements within one hundred and eighty (180) days after the Effective Date (the "**Trigger Date**"), or if prior to the Trigger Date, based on the Final Construction Documents, Landlord determines and notifies City in writing that the total cost of the Leasehold Improvements exceeds \$300,000, either party shall have the right to terminate the provisions providing for the substitution of the Suite 810 Premises for Suite 820-822 upon written notice to the other within ten (10) days after the Trigger Date or within ten (10) days following Landlord's notice set forth above that the total cost of the Leasehold Improvements shall exceed \$300,000, as applicable. Landlord shall be responsible for arranging for all inspections required by City's Bureau of Building Inspection and City's Mayor's Office of Disability.

(c) Prevailing Wage and First Source Hiring. City has adopted a First Source Hiring Ordinance (Board of Supervisors Ordinance No. 264-98) which establishes specific requirements, procedures and monitoring for first source hiring of qualified economically disadvantaged individuals for entry level positions. Within thirty (30) days after the City and County of San Francisco Department of Public Health adopts a First Source Hiring Implementation and Monitoring Plan in accordance with the First Source Hiring Ordinance, Landlord shall enter into a First Source Hiring Agreement that meets the applicable requirements of Section 83.9 of the First Source Hiring Ordinance in connection with certain building permit applications.

Landlord agrees that any person performing labor in the construction of the Leasehold Improvements or other improvements to the Premises, which Landlord provides under the Lease, shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the San Francisco Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco, California. Landlord shall include in any contract for construction of such Leasehold Improvements or other improvements to the Premises, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Landlord shall require any contractor to provide, and shall deliver to City upon request, certified payroll reports with respect to all persons performing labor in the construction of any Leasehold Improvements or other improvements to the Premises.

(d) Construction. Immediately upon approval of the Final Construction Documents and Landlord's procurement of all necessary permits and approvals, Landlord shall commence construction and shall cause the Leasehold Improvements to be completed in a good and professional manner in accordance with sound building practice. Landlord shall comply with and give notices required by all laws, rules, regulations, ordinances, building restrictions and lawful orders of public authorities bearing on construction of the Leasehold Improvements. Without limiting the foregoing, construction of the Leasehold Improvements shall comply with all applicable disabled access laws, including, without limitation, the requirements of the Americans With Disabilities Act of 1990, Title 24 of the California Code of Regulations (or its successor) and City's requirements for program accessibility. Landlord agrees that any person performing labor in the construction of the Leasehold Improvements or other improvements to the Premises, which Landlord provides under this Lease, shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the San Francisco Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco, California. Landlord shall include, in any contract for construction of such Leasehold Improvements or other improvements to the Premises, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Landlord shall require any contractor to provide, and shall deliver to City upon request, certified payroll reports with respect to all persons performing labor in the construction of any Leasehold Improvements or other improvements to the Premises. The provisions of Paragraphs 6 and 13 of Exhibit B-3 attached to this Third Amendment shall apply to the construction of the Leasehold Improvements.

(e) Construction Schedule; Substantial Completion. Landlord shall keep City apprised on a regular basis of the status of plan preparation, permit issuance and the progress of construction. From time to time during the design and construction of the Leasehold Improvements, City shall have the right upon reasonable advance oral or written notice to Landlord to enter the Suite 810 Premises at reasonable times to inspect the Suite 810 Premises, provided such inspections do not unreasonably interfere with the construction. Landlord or its representative may accompany City during any such inspection. When construction progress so permits, but not less than fifteen (15) days in advance of completion, Landlord shall notify City of the approximate date on which the Leasehold Improvement Work will be substantially completed in accordance with the Construction Documents. Landlord shall revise such notice of

the approximate substantial completion date as appropriate from time to time and shall promptly notify City when the Leasehold Improvement Work is in fact substantially completed and the Suite 810 Premises are ready for occupancy by City. On such date or other mutually agreeable date as soon as practicable thereafter, City and its authorized representatives shall have the right to accompany Landlord or its architect on an inspection of the Suite 810 Premises.

The Leasehold Improvement Work shall be deemed to be “**Substantially Completed**” for purposes of this Third Amendment when the Leasehold Improvements shall have been sufficiently completed in accordance with the approved Construction Documents so that City can occupy the Suite 810 Premises and conduct its business for its intended uses, Landlord has procured a temporary or final certificate of occupancy for the Suite 810 Premises and City, through its Director of Property, shall have approved the Leasehold Improvements. City may, at its option, approve the Leasehold Improvements even though there may remain minor details that would not interfere with City’s use. Landlord shall diligently pursue to completion all such details. Notwithstanding the foregoing, City shall have the right to present to Landlord within thirty (30) days after acceptance of the Suite 810 Premises, or as soon thereafter as practicable, a written punchlist consisting of any items that have not been finished in accordance with the Construction Documents. Landlord shall promptly complete all defective or incomplete items identified in such punchlist, and shall in any event complete all items within thirty (30) days after the delivery of such list. City’s failure to include any item on such list shall not alter the Landlord’s responsibility hereunder to complete all Leasehold Improvement Work in accordance with the approved Construction Documents, nor constitute any waiver of any latent defects.

No approval by City or any of its Agents of the Pricing Plans, Construction Documents or completion of the Leasehold Improvement Work for purposes of this Lease shall be deemed to constitute approval of any governmental or regulatory authority with jurisdiction over the Suite 810 Premises, and nothing herein shall limit Landlord’s obligations to obtain all such approvals.

Subject to any Unavoidable Delays (as defined in the Lease), City shall be responsible for any delay in the construction of the Leasehold Improvement Work due solely and directly to any of the following (collectively, “**Tenant Delays**”); (i) a delay in granting its reasonable approval of plans and specifications (beyond the period granted therefor), (ii) City’s material changes in the Final Construction Documents after City has approved them, (iii) a delay in excess of one week in delivery of data or telephone cables provided that Landlord has given City a minimum of four (4) weeks prior notice of the desired delivery date, and (iv) a delay in excess of one week in Tenant’s installation of furniture systems. The Leasehold Improvement Work shall be considered to be Substantially Completed for purposes of the determination of the Substitution Date on the date by which the Leasehold Improvement Work would have been completed if there had been no such Tenant Delay. Notwithstanding the foregoing, City shall be responsible only to the extent any delays are actually caused by Tenant Delays.

7. **LANDLORD’S RIGHT TO RELOCATE STORAGE PREMISES.** During the Term or any extension thereof, Landlord shall have the right upon not less than ninety (90) days prior written notice to City to relocate the Storage Premises to an area (the “**Relocated Storage Premises**”) in Landlord’s Commercial Parcel of the Building provided that (i) the

Relocated Storage Premises are reasonably the same size as the Storage Premises, and (ii) Landlord shall be responsible for all costs to move City's property from the Storage Premises to the Relocated Storage Premises. City shall pay the same amount of Base Rent for the Relocated Storage Premises as is payable under the Lease for the Storage Premises, and no Additional Rent shall be payable with respect to the Relocated Storage Premises. City acknowledges that the Relocated Storage Premises may not be in the garage area of the Building. In the event of that City does not want to lease the Relocated Storage Premises, City shall have the right to terminate the Storage Premises from the Lease (and reduce the Base Rent owed accordingly) by written notice to Landlord.

8. **LANDLORD'S ADDRESS.** Effective as of the Effective Date, Landlord's address set forth in the Lease for notices and payment of rent and other amounts due under the Lease is deleted in its entirety and replaced by the following:

Landlord's notice address:

BRCP 1390 Market, LLC
c/o Broadreach Capital Partners
248 Homer Avenue
Palo Alto, California 94301
Attention: Asset Manager

With copy to:

Transwestern
1390 Market Street, Suite 316
San Francisco, California 94102

Landlord's address for rent and other payments:

BRCP 1390 Market, LLC
c/o Transwestern
P.O. Box 51864
Los Angeles, California 90051-6191

9. **ADDITIONAL PROVISIONS.** The Lease is amended and updated to include the provisions in Exhibit B-3, which replace the corresponding language, if any, in the Lease.

10. **NO BROKERS.** Tenant represents and warrants that it has not dealt with any real estate broker in connection with this Third Amendment, and no compensation is due to Tenant's broker in connection with this Third Amendment. Tenant agrees to indemnify and hold Landlord harmless for any loss, cost, liability or expense incurred by Landlord as a result of a claim for brokerage commissions or finder's fee from any broker based on the act or omission of Tenant in breach of the foregoing warranty. Landlord agrees to indemnify and hold Tenant harmless for any loss, cost, liability or expense incurred by Tenant as a result of a claim for brokerage commissions or finder's fee from any broker claiming to have represented Landlord in connection with this Third Amendment.

11. **DEFINED TERMS.** All capitalized terms used but not defined in this Third Amendment will have the meanings set forth for such terms in the Lease. All terms that are defined in this Third Amendment and used in any provisions that are added to the Lease pursuant to this Third Amendment will have the meanings in the Lease set forth for such terms in this Third Amendment.

12. **WHOLE AGREEMENT.** This Third Amendment sets forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements. Except as amended herein, there shall be no other changes or modifications to the Lease between the parties and the Lease and the terms and provision contained therein shall remain in full force and effect.

13. **MISCELLANEOUS.** This Third Amendment shall be binding upon the parties hereto, their heirs, successors and assigns. Except as modified hereby, there shall be no other changes or modifications to this Third Amendment or to the Lease unless in writing and executed by the parties hereto. No reference to this Third Amendment is necessary in any instrument or document at any time referring to the Lease. Any future reference to the Lease shall be deemed a reference to such document as amended hereby. This Third Amendment shall be governed by, construed and enforced in accordance with the laws of the State of California.

14. **CONFIRMATION OF LEASE.** As amended by this Third Amendment, Landlord and Tenant confirm and ratify in all respects the terms and conditions of the Lease, and further confirm that, except as provided in Section 6 of this Third Amendment, there are no outstanding tenant improvement obligations of Landlord regarding the Premises. The execution of this Third Amendment shall not constitute a waiver of relinquishment of any rights which Landlord or Tenant may have relating to the Lease.

15. **NO JOINT VENTURE.** This Third Amendment or any activity by Tenant hereunder does not create a partnership or joint venture between Tenant and Landlord relating to the Lease or otherwise. This Third Amendment does not constitute authorization or approval by the City of any activity conducted by Landlord.

16. **COUNTERPARTS.** This Third Amendment may be executed in one or more counterparts, each of which shall be deemed an original, including transmittals by facsimile, all of which together shall constitute one and the same instrument.

17. **EFFECTIVE DATE.** This Third Amendment shall become effective on the later date that this Third Amendment is (i) fully executed and delivered by both parties or (ii) authorized by a Resolution by City's Board of Supervisors and Mayor in their sole discretion.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS THIRD AMENDMENT, LANDLORD ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY HERETO UNLESS AND UNTIL CITY'S BOARD OF SUPERVISORS SHALL HAVE DULY ADOPTED A RESOLUTION APPROVING THIS THIRD AMENDMENT AND AUTHORIZING CONSUMMATION OF THE TRANSACTION CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT

UPON ADOPTION OF SUCH A RESOLUTION, AND THIS THIRD AMENDMENT SHALL BE NULL AND VOID UNLESS CITY'S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS THIRD AMENDMENT, IN THEIR RESPECTIVE SOLE AND ABSOLUTE DISCRETION, AND IN ACCORDANCE WITH ALL APPLICABLE LAWS. APPROVAL OF THIS LEASE BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ADOPTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Third Amendment as of the day and year first above written.

LANDLORD

TENANT

BRCP 1390 Market, LLC,
a Delaware limited liability company

City and County of San Francisco,
a municipal corporation

By: BRCP Realty II, L.P.,
a Delaware limited partnership
Its: Sole Member

By: _____
JOHN UPDIKE, Director of Real Estate

By: BRCP Gen-Par II, LLC,
a Delaware limited liability company
Its: General Partner

By: _____
Name: _____
Its: _____

**RECOMMENDED:
DEPARTMENT OF PUBLIC HEALTH**

By: _____
Barbara Garcia, Director

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

By: _____
Deputy City Attorney

EXHIBIT A-3
Depiction of Suite 810 Premises

[Attached]

EXHIBIT B-3
Updated City Provisions

1. Controller's Certification of Funds

The terms of this Lease shall be governed by and subject to the budgetary and fiscal provisions of the City's Charter. Notwithstanding anything to the contrary contained in this Lease, there shall be no obligation for the payment or expenditure of money by City under this Lease unless the Controller of the City and County of San Francisco first certifies, pursuant to Section 3.105 of the City's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Without limiting the foregoing, if in any fiscal year of City after the fiscal year in which the Term of this Lease commences, sufficient funds for the payment of Rent and any other payments required under this Lease are not appropriated, then City may terminate this Lease, without penalty, liability or expense of any kind to City, as of the last date on which sufficient funds are appropriated. City shall use its reasonable efforts to give Landlord reasonable advance notice of such termination.

2. Non-Liability of City Officials, Employees and Agents

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

3. 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 Section 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.

4. Prevailing Wages for Construction Work

Landlord agrees that any person performing labor in the construction of the Leasehold Improvements or other improvements to the Premises, which Landlord provides under this Lease, shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the San Francisco Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco, California. Landlord shall include, in any contract for construction of such Leasehold Improvements or other improvements to the Premises, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Landlord shall require any contractor to provide, and shall deliver to City upon request, certified payroll reports with respect to all persons performing labor in the construction of any Leasehold Improvements or other improvements to the Premises.

5. Non Discrimination 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, disability, weight, height, 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 shall include in all subcontracts relating to the Premises a non-discrimination clause applicable to such subcontractor in substantially the form of subsection (a) above. In addition, Landlord shall 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 shall require all subcontractors to comply with such provisions. Landlord's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) Non-Discrimination in Benefits

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

(d) HRC Form

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

(e) Incorporation of Administrative Code Provisions by Reference

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

violation of the provisions of this Lease may be assessed against Landlord and/or deducted from any payments due Landlord.

6. Tropical Hardwood and Virgin Redwood Ban

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

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

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

7. Bicycle Storage Facilities

Article 1.5, Section 155.1, of the San Francisco Planning Code (the "**Planning Code**") requires the provision of bicycle storage at City-leased buildings at no cost to Landlord and if funds are available. Landlord agrees to continue at no cost to the City, the existing bicycle facilities located in the garage. In the event public and/or private donations, grants or other funds for additional facilities become available, at any time during the Term of this Lease including any extension thereof, City may, by giving a 60-day advanced written notice to Landlord, install additional compliant bicycle storage in the Building garage provided the garage owner approves the same. Landlord agrees to use commercially reasonable efforts to obtain such approval. If parking spaces are lost, City shall pay the monthly rent value for any such parking spaces used for such bicycle parking, and Landlord also agrees that City may install bicycle racks in other location(s) in front of the Building, which are required to meet the Class 1 and/or Class 2 requirements of the Planning Code. Landlord, at no cost to Landlord, shall reasonably cooperate with City regarding the location of such spaces in furtherance of the implementation of such requirements of the Planning Code. The above notwithstanding, City acknowledges that Landlord does not own the entire building and only has limited rights to the parking garage and the common areas.

8. Resource-Efficient City Buildings and Pilot Projects

Landlord acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 707 relating to resource-efficient City buildings and resource-efficient pilot projects. Landlord hereby agrees that it shall comply with all applicable provisions of such code sections.

9. Certification by Landlord

By executing this Lease, Landlord certifies that neither Landlord nor any of its officers or members have been suspended, disciplined or disbarred by, or prohibited from contracting with, any federal, state or local governmental agency. In the event Landlord or any

of its officers or members have been so suspended, disbarred, disciplined or prohibited from contracting with any governmental agency, it shall immediately notify the City of same and the reasons therefore together with any relevant facts or information requested by City. Any such suspension, disbarment, discipline or prohibition may result in the termination or suspension of this Lease. Landlord acknowledges that this certification is a material term of this Lease.

10. Sunshine Ordinance

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

11. Conflicts of Interest

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

12. 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 the City for the selling or leasing of any land or building to or from the City whenever such 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 (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Landlord acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Landlord further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Landlord's board of directors, chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Landlord; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Landlord. Additionally, Landlord acknowledges that Landlord must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Landlord further agrees to provide to City the names of each person, entity or committee described above."

13. Preservative-Treated Wood Containing Arsenic

As of July 1, 2003, Landlord may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of 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**” shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, 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**” shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

14. Graffiti Removal

(a) Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City’s property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

(b) Landlord shall use good faith and commercially reasonable efforts to remove all graffiti from the Building and from any real property owned or leased by Landlord in the City and County of San Francisco within forty eight (48) hours of the earlier of Landlord’s (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require Landlord to breach any lease or other agreement that it may have concerning its use of the real property. The term “**graffiti**” means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner’s authorized agent, and which is visible from the public right-of-way. “Graffiti” shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

(c) Any failure of Landlord to comply with this section of this Lease shall constitute a breach of this Lease.

