File No. 140093 Committee Item No. 5
Board Item No. 12

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Budget & Finance Sub-Committee **Date** May 7, 2014

Board of Supervisors Meeting **Date** May 13, 2014

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Completed by: Linda Wong **Date** May 2, 2014
Completed by: L. W. **Date** May 8, 2014

[Contract Amendment and Property Use License - TEGSCO, LLC - San Francisco AutoReturn Towing]

Resolution approving the first amendment to the amended and restated Towing Agreement and Property Use License for towing, storage and disposal of abandoned and illegally parked vehicles, between the San Francisco Municipal Transportation Agency and TEGSCO, LLC, dba San Francisco AutoReturn, which shall be effective retroactive to May 1, 2013, and through July 31, 2015.

WHEREAS, San Francisco AutoReturn has been the contractor for towing services for the City since 2004, and is currently under an agreement for services through August 2015, including management of a long-term vehicle storage facility and vehicle auction area; and

WHEREAS, At the time of contract award, a portion of Pier 70 served as the location of this facility; and

WHEREAS, In 2011 the Port announced that a developer had been chosen to redevelop Pier 70, which necessitated relocating the long-term storage and auction facility; and

WHEREAS, In 2012, after approval from the Board of Supervisors (Resolution No. 365-12) the San Francisco Municipal Transportation Agency (SFMTA) entered into a lease for occupation of property located at 2650 Bayshore Blvd., and in May 2013 exercised its right under the contract with AutoReturn to move the long-term vehicle storage facilities from Pier 70 to the Bayshore location; and

WHEREAS, To document the long-term towing storage facility's move from Pier 70 to the Bayshore location, the First Amendment to the Amended and Restated Towing Agreement (the "First Amendment") will delete two appendices to the Towing Agreement – the

previous MOU with the Port of San Francisco (Appendix C) and the existing license agreement (Appendix D) – and the First Amendment will add a revised license agreement (Appendix H) to reflect the new license agreement for the Bayshore facility; and

WHEREAS, Modifications will also be made to the Amended and Restated Towing Agreement to reflect the change in the location of the long-term storage and auction facility, and to change the financial assurance requirements, as requested by AutoReturn; and

WHEREAS, AutoReturn paid $110,191 in one-time move costs related to transferring over 1,200 vehicles from Pier 70 to 2650 Bayshore, providing security services at two locations, and reinstalling SFMTA surveillance and access control systems; and

WHEREAS, AutoReturn began and is incurring additional monthly operating expenses, less operational savings, at 2650 Bayshore, which were not contractually anticipated, and were established by mutual agreement at a net average increase of $2,145 per month; and

WHEREAS, A rent credit of $6,226 per month is proposed in the revised license agreement to compensate AutoReturn for its unanticipated relocation costs and increased operating expenses, which will be applied to the current rent over a period of twenty-seven months totaling $168,115; and

WHEREAS, There will also be a modification to the current contract's financial assurances of a $1 million Letter of Credit and a $1 million Performance Bond to a single, $2 million Performance Bond; and

WHEREAS, The SFMTA Board of Directors approved the reimbursement amount and the financial assurance modification under its Resolution 14-050 on April 1, 2014, and

WHEREAS, A copy of the proposed First Amendment is on file with the Clerk of the Board of Supervisors in File No. 140093, which is hereby declared to be a part of this Resolution as if set forth fully herein; and

WHEREAS, San Francisco Charter, Section 9.118 requires Board of Supervisors' approval of an amendment to a contract that when entered into had anticipated revenue to the City of $1,000,000 or more; now, therefore, be it

RESOLVED, That the San Francisco Board of Supervisors approves the First Amendment to the Restated and Amended Towing Agreement and Property Use License for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles by and between the San Francisco Municipal Transportation Agency and TEGSCO, LLC, d.b.a. San Francisco AutoReturn, with a term of May 1, 2013, through July 31, 2015; and, be it

FURTHER RESOLVED, That the Board of Supervisors authorizes SFMTA's Director of Transportation to execute the First Amendment in substantially the form of the First Amendment on file with the Clerk of the Board of Supervisors as approved by the City Attorney; and, be it

FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of Transportation to enter into any additions, amendments or other modifications to the First Amendment (including, without limitation, preparation and attachment of, or changes to, any or all of the exhibits, appendices, and ancillary agreements) that the Director of Transportation, in consultation with the City Attorney, determines when taken as a whole, are in the best interest of the SFMTA, do not materially increase the term of the First Amendment, or the term of any of the appendices or ancillary agreements to the First Amendment, or materially increase the obligations or liabilities of City, or materially decrease the public benefits accruing to City, comply with all applicable laws, and are necessary or advisable to complete the transactions contemplated and effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Director of Transportation of any such documents; and be it

FURTHER RESOLVED, That within thirty (30) days of the contract being fully executed by all parties the SFMTA shall provide the final contract to the Clerk of the Board for inclusion into the official file.

Item 5 File 14-0093	Department: San Francisco Municipal Transportation Agency (SFMTA)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve the (a) First Amendment to the Restated and Amended Towing Agreement and (b) Property Use License for towing, storage and disposal of abandoned and illegally parked vehicles between SFMTA and TEGSCO, LLC, dba San Francisco AutoReturn (AutoReturn).

Key Points

- In July of 2005, based on a competitive process, the Board of Supervisors approved an agreement and property use license between SFMTA and AutoReturn to provide towing, storage, and disposal or auction of abandoned and illegally parked vehicles for an initial five-year period from July 31, 2005 through July 31, 2010, with an option to extend for an unspecified term. This agreement was subsequently amended to specify other procedures, increase rates and extend the term through July 31, 2015.
- Under the agreement, AutoReturn is responsible for managing a long-term vehicle storage facility and auction area for the towed vehicles. Originally, AutoReturn provided such services on Pier 70, which was leased by the Port to the SFMTA. Because of the Port's plans to develop Pier 70, on October 23, 2012, the Board of Supervisors approved a 20-year lease, with two five-year options to extend, between Prologis and SFMTA for a 556,055 square foot property at 2650 Bayshore Boulevard in Daly City for AutoReturn's towed vehicle operations and SFMTA's signal shop and training facilities

Fiscal Impact

- Under the Bayshore lease, SFMTA pays Prologis $204,137 per month or $2,449,642 the first year, plus increases of 3% annually and another 4% every five years. AutoReturn currently pays $150,379 per month in rent to the SFMTA for the Bayshore lease, or $1,804,548 annually, the same rent AutoReturn previously paid the Port for Pier 70. SFMTA's net cost for the Bayshore lease is $645,094 ($2,449,642 less $1,804,548).
- Under the proposed new license agreement, total rent credits of $168,115, or approximately $6,226 per month over the 27-month lease term would be deducted by AutoReturn from the monthly rent paid to SFMTA for the Bayshore lease to offset AutoReturn's (a) unanticipated costs to relocate from Pier 70 ($4,081) and (b) net increased operating expenses at 2650 Bayshore Boulevard ($2,145). AutoReturn will pay SFMTA a total of $3,926,870 over the 27-month term of the license agreement.

Recommendations

- Amend the proposed resolution to reflect that the subject new License Use Agreement at 2650 Bayshore Boulevard in Daly City would be retroactive from May 1, 2013 through July 31, 2015.
- Approve the proposed resolution as amended.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

City Charter Section 9.118 requires that contracts, or amendments to contracts with anticipated revenues to the City of $1,000,000 or more, be subject to Board of Supervisors approval.

Existing San Francisco AutoReturn Agreement with SFMTA

In July of 2005, based on a competitive process, the Board of Supervisors approved an agreement and property use license[1] between the San Francisco Municipal Transportation Agency (SFMTA) and San Francisco AutoReturn (AutoReturn) for AutoReturn to provide towing, storage, and disposal or auction of abandoned and illegally parked vehicles for an initial five-year period from August 1, 2005 through July 31, 2010, with one option to extend for an unspecified term (File 05-1196; Resolution 556-05). On June 12, 2007, the Board of Supervisors approved a First Amendment to this agreement to increase the rates for towing, storage and administrative fees (File 07-0585; Resolution 318-07). On July 20, 2010, the Board of Supervisors approved an amended and restated service agreement and property use license[2] between SFMTA and AutoReturn to (a) extend the agreement for five years, or from August 1, 2010 through July 31, 2015, (b) establish a new Contract Monitor Fund and Audit Fund, and (c) modify service and reporting procedures (File 10-0796; Resolution 232-10).

Currently, the major tow fees are as follows:

Current Major Tow Fees	FY2014
SFMTA Administrative Tow Fee	$ 254.00
AutoReturn Tow Fee	218.00[3]
AutoReturn Storage Fee-1st Day	56.25
AutoReturn Storage Fee-2nd Day	65.75

Under the existing agreement with AutoReturn, SFMTA receives administrative fees, referral fees and a fee equaling one percent of AutoReturns' gross revenues. Table 1 below identifies the various fee revenues totaling $58,982,284 SFMTA has received under the existing AutoReturn agreement during the eight-year period from FY 2005-06 through FY 2012-13.

[1] The property use license was an appendix to the agreement, which was a separate revocable contract between SFMTA and AutoReturn for AutoReturn's use of Seawall Lot 349 on Pier 70 as a long-term vehicle storage lot, office space and auction site.

[2] As reported by the City Attorney's Office in 2010, because a majority of the proposed modifications to the agreement were to codify practices and procedures that became operational after the first amendment to the agreement, the parties negotiated an amended and restated agreement which incorporated into one document the previously approved original agreement, the previously approved first amendment to the agreement and the proposed modifications, rather than proposing a second amendment to the agreement.

[3] Includes a $24.50 referral fee paid to SFMTA for each vehicle towed.

Table 1: SFMTA Fee Revenues Received Under Existing AutoReturn Agreement

Fiscal Years	*SFMTA Administrative Fee*	*Referral Fee*	*1% Gross Revenue Fee*	*Total Revenue*
FY 2005-2006	*$3,230,140*	*$1,261,905*	*$153,739*	*$4,645,784*
FY 2006-2007	*3,309,830*	*1,332,164*	*166,903*	*4,808,897*
FY 2007-2008	*4,108,025*	*1,373,579*	*208,090*	*5,689,694*
FY 2008-2009	*4,135,314*	*1,409,100*	*216,911*	*5,761,325*
FY 2009-2010	*7,229,706*	*1,227,336*	*187,087*	*8,644,129*
FY 2010-2011	*8,485,983*	*1,146,828*	*186,268*	*9,819,079*
FY 2011-2012	*8,117,300*	*1,123,498*	*186,491*	*9,427,289*
FY 2012-2013	*9,042,696*	*979,811*	*163,580*	*10,186,087*
Total	***$47,658,994***	***$9,854,221***	***$1,469,069***	***$58,982,284***

Ms. Lorraine Fuqua, Contract Administrator for SFMTA advises that the number of vehicles towed each year has steadily declined over the past nine years. As shown in Table 2 below, between FY 2005 and FY 2013, the number of vehicles towed in San Francisco declined from 73,067 to 47,289, a reduction of 25,778 or 35%.

Table 2: Number of Vehicles Towed Annually in San Francisco

FY 2005	FY 2006	FY 2007	FY 2008	FY2009	FY 2010	FY 2011	FY 2012	FY 2013
73,067	69,336	69,139	68,136	67,211	58,622	53,793	51,249	47,289

Under the existing agreement, AutoReturn is also responsible for management of a long-term vehicle storage facility and vehicle auction area for the towed vehicles. Originally, AutoReturn provided such services on a portion of Pier 70, which was leased by the Port to the SFMTA. However, in 2011, the Port selected Forest City Development California, Inc. as part of an overall development project of the Pier 70 Waterfront Site, which necessitated the SFMTA finding another location for long-term vehicle storage and area to auction towed vehicles.

Existing Lease for Storing Towed Vehicles

Because of the Port's plans to develop Pier 70, on October 23, 2012, the Board of Supervisors approved a 20-year lease, with two five-year options to extend, with Prologis, on behalf of the SFMTA, for a 556,055 square foot (12.72 acre) property at 2650 Bayshore Boulevard in Daly City for the SFMTA's towed vehicle operations and other SFMTA uses, including SFMTA's signal shop and employee training facilities (File 12-0904; Resolution 365-12).

According to Mr. Steven Lee, Manager of Financial Services for SFMTA, between October 2012, when the Board of Supervisors approved the Bayshore Boulevard lease and April of 2013, Prologis completed the necessary SFMTA tenant improvements on the Bayshore site. In May 2013, the SFMTA exercised its right to move the long-term vehicle storage facilities from Pier 70 to the 2650 Bayshore Boulevard location. Under the Bayshore lease, the SFMTA pays Prologis $204,137 per month or $2,449,642 for the first year, plus 3% annual increases, plus an additional 4% increase every five years.

AutoReturn is currently paying $150,379 per month in rent to the SFMTA for their leased space on the Bayshore site, or $1,804,548 annually, which reflects the same monthly rent that AutoReturn previously paid to the Port for leasing the Pier 70 facilities. SFMTA's net annual rent cost for the Bayshore lease is $645,094 ($2,449,642 total rent less $1,804,548 paid by AutoReturn). AutoReturn's monthly rent payments to SFMTA are in addition to the SFMTA revenues shown in Table 1 above.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the First Amendment to the Amended and Restated Towing Agreement and a new Property Use License Agreement (Appendix H) for towing, storage and disposal of abandoned and illegally parked vehicles between the City, on behalf of the SFMTA and San Francisco AutoReturn (AutoReturn).

The term of the First Amendment to the agreement between SFMTA and AutoReturn would remain the same as the existing agreement, from August 1, 2010 through July 31, 2015. According to Mr. Lee, the SFMTA will be issuing a Request for Proposal (RFP) by the end of September 2014 for a new towing, storage and disposal of abandoned and illegally parked vehicle agreement, to commence August 1, 2015. The term of the new Property Use License Agreement (Appendix H) for the leased premises at 2650 Bayshore Boulevard would be retroactive to May 1, 2013, when SFMTA and AutoReturn moved into the Bayshore space, through July 31, 2015.

The proposed resolution should therefore be amended to reflect that the provisions in the subject new Property Use License Agreement would be retroactive back to May 1, 2013. Mr. Lee advises that the proposed resolution was delayed because although AutoReturn moved into the Bayshore Boulevard leased space in May 2013, SFMTA's signal shop did not fully move into the Bayshore Boulevard space until December 2013. As a result, SFMTA could not determine the exact square footage of space to be leased under the proposed license agreement to AutoReturn until January of 2014, after SFMTA had fully moved into the Bayshore Boulevard space.

The proposed First Amendment would approve the following major changes:

- Amend the language in the existing agreement to reflect the new leased facility at 2650 Bayshore Boulevard instead of the previous Pier 70 leased location for the towing, storage and auction of vehicles;

- Delete Appendix C, which is a Memorandum of Understanding between the Port and SFMTA, which addressed the previous lease provisions for Pier 70;
- Delete Appendix D, which is the license agreement between the City and AutoReturn regarding the previous Pier 70 lease;
- Modify the financial assurance requirements from the current $1,000,000 Letter of Credit and $1,000,000 Performance Bond to a single $2,000,000 Performance Bond, as requested by AutoReturn; and
- Add Appendix H, which is a new license agreement between the City and AutoReturn for the 2650 Bayshore Boulevard leased location shown in the map attached to this report. A summary of the new major license agreement provisions are summarized in Table 3 below.

Table 3: SFMTA and AutoReturn's New License Agreement Major Provisions

Location	2650 Bayshore Boulevard, Daly City
Square Feet (sf)	330,771 sf or 59% of 556,055 sf total
Permitted Uses	Parking for storage of vehicles, auction and office space
Term	May 1, 2013 through July 31, 2015 (27 months)
Monthly Base Rent Payable by AutoReturn to SFMTA Rate per sf/month	$150,379 $0.45
Annual Adjustment to Base Rent	On August 1, 2014, increase of 2.549% or $154,212
Rent Credits	$6,226 x 27 months ($168,115)
Utilities and Security	Paid by AutoReturn

On April 1, 2014 the SFMTA Board of Directors approved the proposed First Amendment to the Amended and Restated Towing Agreement and the new Property Use License between SFMTA and AutoReturn (SFMTA Resolution 14-050).

FISCAL IMPACTS

Under the proposed new license agreement, which is Appendix H to the Agreement, total rent credits of $168,115, or approximately $6,226 per month over the 27-month lease term from May 1, 2013 through July 31, 2015 would be deducted by AutoReturn from the base monthly rent payments paid to SFMTA for the 2650 Bayshore Boulevard leased premises to

compensate AutoReturn for (a) unanticipated costs to relocate from Pier 70 ($4,081[4]) and (b) net increased operating expenses at 2650 Bayshore Boulevard ($2,145[5]).

As summarized in Table 4 below, SFMTA is projected to receive a total of $3,926,870 in rent payments from AutoReturn, net of the $168,115 in rent credits, over the 27-month term of the proposed license agreement between SFMTA and AutoReturn.

[4] AutoReturn's unanticipated one-time costs to relocate from Pier 70 to the Bayshore Boulevard site totaled $110,191, including (a) $28,937 to tow over 1,200 vehicles, (b) $24,819 to provide additional security at Pier 70 through June 30, 2013, (c) $10,111 to reimburse AutoReturn employees for overtime to complete the move and setup the new facility, and (d) $46,323 to install a surveillance and access gate control system for SFMTA. The total one-time cost of $110,191 divided by 27 months equals $4,081.

[5] AutoReturns net increased monthly operating expenses of $2,145 are primarily due to (a) additional $5,000 costs for the time and mileage to tow vehicles and cab fares to the more distant Bayshore Boulevard site, additional forklift requirements by Daly City, and janitorial expenses, (b) offset by decreased $2,855 expenses for mobile office rents at Pier 70, reduced insurance and elimination of valet services on auction days.

Table 4: 27-Month Revenue Projections of Rent to be Paid by AutoReturn to SFMTA Under the Proposed License Agreement

	Current Monthly Rent	Rent Credit	Net New Monthly Rent
May 2013	$146,631	$6,226	$140,405
June 2013	$146,631	$6,226	$140,405
July 2013	$146,631	$6,226	$140,405
August 2013	$150,379	$6,226	$144,153
September 2013	$150,379	$6,226	$144,153
October 2013	$150,379	$6,226	$144,153
November 2013	$150,379	$6,226	$144,153
December 2013	$150,379	$6,226	$144,153
January 2014	$150,379	$6,226	$144,153
February 2014	$150,379	$6,226	$144,153
March 2014	$150,379	$6,226	$144,153
April 2014	$150,379	$6,226	$144,153
May 2014	$150,379	$6,226	$144,153
June 2014	$150,379	$6,226	$144,153
July 2014	$150,379	$6,226	$144,153
August 2014	$154,212	$6,226	$147,986
September 2014	$154,212	$6,226	$147,986
October 2014	$154,212	$6,226	$147,986
November 2014	$154,212	$6,226	$147,986
December 2014	$154,212	$6,226	$147,986
January 2015	$154,212	$6,226	$147,986
February 2015	$154,212	$6,226	$147,986
March 2015	$154,212	$6,226	$147,986
April 2015	$154,212	$6,226	$147,986
May 2015	$154,212	$6,226	$147,986
June 2015	$154,212	$6,226	$147,986
July 2015	$154,212	$6,226	$147,986
Total	**$4,094,985**	**$168,115***	**$3,926,870**

*Due to rounding.
Source: SFMTA

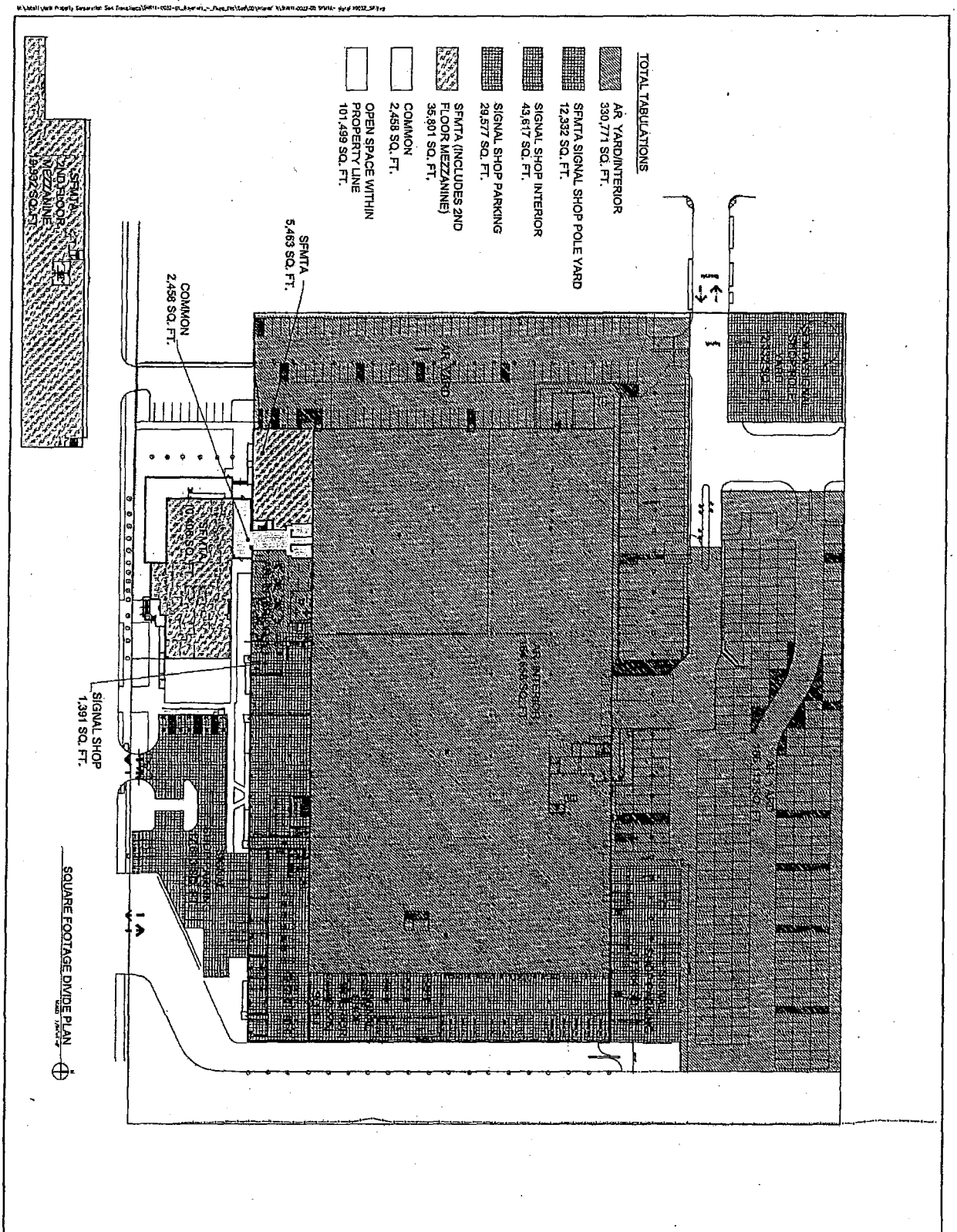
The proposed new license agreement with AutoReturn reflects the same monthly rent paid by AutoReturn to the Port under the Pier 70 lease. Mr. Lee advises that although the square feet was reduced from 519,328 square feet at Pier 70 to 330,771 square feet at the Bayshore facility, a reduction of 188,557 square feet or 36%, the rate per square foot increased from $0.29 per month to $0.45 per month, an increase of $0.16 or 55%. The significantly higher per square foot monthly rate at the Bayshore Boulevard site reflects the significantly improved

facilities, including new permanent office space and available public auction space for AutoReturn.

As noted above, the proposed amendments also include modifications to the financial assurance requirements from the current $1,000,000 Letter of Credit and $1,000,000 Performance Bond to a single $2,000,000 Performance Bond, as requested by AutoReturn. According to Mr. Lee, the existing $1,000,000 Letter of Credit was required by the Port due to the (a) proximity of Pier 70 to the Bay, (b) potential for a major environmental incident, and (c) an abundance of caution. Mr. Lee notes that Prologis, the landlord at the new 2650 Bayshore Boulevard lease location does not require a Letter of Credit and the higher $2,000,000 Performance Bond matches the SFMTA's lease insurance requirements. Furthermore, Mr. Lee notes that the proposed increased $2,000,000 Performance Bond provides better risk mitigation for the City because the AutoReturn contract is a performance-based service agreement.

RECOMMENDATIONS

1. Amend the proposed resolution to reflect that the subject new License Use Agreement at 2650 Bayshore Boulevard in Daly City would be retroactive from May 1, 2013 through July 31, 2015.
2. Approve the proposed resolution as amended.



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TITLE SHEET

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Cristina Rubke, *Director*

Edward D. Reiskin, *Director of Transportation*

April 21, 2014

The Honorable Members of the Board of Supervisors
City and County of San Francisco
1 Dr. Carlton Goodlett Place, Room 244
San Francisco, CA 94102

Subject: First Amendment and License Agreement – Towing Contract

Honorable Members of the Board of Supervisors:

The purpose of this briefing is to provide information to support the San Francisco Municipal Transportation Agency's (SFMTA) request that the Board of Supervisors Approve the First Amendment to the Amended and Restated Towing Agreement and Property Use License for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles between the San Francisco Municipal Transportation Agency and TEGSCO, LLC, dba San Francisco AutoReturn. The proposed amendment and license agreement modifications have no impact to towing and storage fees.

Background

In 2012, the SFMTA entered into a lease for occupation of property located at 2650 Bayshore Blvd., and in May 2013 exercised its right to move the long-term vehicle storage facilities from Pier 70 to the Bayshore location. AutoReturn will share the property with other SFMTA operations, including the Signal Shop and employee training facilities.

To document the long-term towing storage facility's move from Pier 70 to the Bayshore location, two appendices to the towing agreement – the previous MOU with the Port of San Francisco (Appendix C) and the existing license agreement (Appendix D) – will be deleted and Appendix H will be added to reflect the new license agreement. In addition, modifications will be made to the Amended and Restated Towing Agreement to reflect changes in financial assurance requirements.

Contract Amendment and License Agreement

The proposed amendment to the towing contract and license agreement documents modifications that were negotiated between SFMTA and AutoReturn includes the following:

- Rent Adjustment: This rent adjustment is driven by SFMTA's relocation of towing services which required AutoReturn to move. The adjustment provides a rent credit of $6,226 per month, over twenty-seven months, to compensate for AutoReturn's increased operating expenses at 2650 Bayshore and its relocation cost in moving from Pier 70. This adjustment totals $168,115 paid over twenty-seven months.

  AutoReturn paid $110,191 in one-time move costs related to the transfer of more than 1,200 vehicles from Pier 70 to 2650 Bayshore, security services and staffing at both locations (the SFMTA was obligated to secure Pier 70 through June 30th, 2013), and the reinstallation of

surveillance and access control systems owned by the SFMTA. AutoReturn is also incurring additional monthly operating expenses, less operational savings, not contractually anticipated and mutually established at a net average increase of $2,145 per month.

The proposed rent for the Bayshore location will remain unchanged at $150,378.75 per month despite a 36 percent reduction in total square footage from 519,328 sq. ft. at Pier 70 to 330,771 sq. ft. at 2650 Bayshore and reflects a 57 percent increase rent paid per square foot from $0.29 to $0.45. Effective August 1, 2014, rent shall increase by 2.549 percent to $154,212.23 per month for the remaining twelve months of the term. The reduction in space is offset by significantly improved facilities, including permanent office space with indoor plumbing and vehicle auction space free of roof leaks that will better accommodate the general public in a safe, secure and more efficient facility.

- Financial Assurance Modification: Modifying the current contract's financial assurances of a $1 million Letter of Credit and $1 million Performance Bond to a single $2 million Performance Bond. The adjustment better reflects the function of the contract as a performance-based service agreement. In addition, insurance requirements have been increased to match the SFMTA's Bayshore lease insurance requirements.

- Community Outreach: The SFMTA and AutoReturn have met regularly with the Visitacion Valley Neighborhood Association to ensure that transitioning the facility to the Bayshore location was done with minimal impact to the surrounding neighborhood, and have been working to address concerns related to vehicle traffic, city vehicle parking and beautification of the site. Going forward, based on community requests, AutoReturn will attend the association meetings on a monthly basis and the SFMTA will attend quarterly in order to hear any community concerns that may arise.

Recommendation

To support the City's efforts to provide the best customer service possible for the often arduous task of retrieving one's vehicle when towed, and to continue to ease traffic congestion and blight caused in part by illegally parked and abandoned vehicles, the SFMTA recommends approval of the Amendment to the Amended and Restated Towing Agreement and Property Use License for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles between the SFMTA and TEGSCO, LLC, dba San Francisco AutoReturn.

Thank you for your consideration. Should you have any questions or require more information, please do not hesitate to contact me any time.

Sincerely,

Edward D. Reiskin
Director of Transportation

SFMTA
Municipal
Transportation
Agency

Edwin M. Lee, *Mayor*

Tom Nolan, *Chairman*
Malcolm Heinicke, *Director*
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Edward D. Reiskin, *Director of Transportation*

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January 31, 2014

Angela Calvillo, Clerk of the Board
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Dear Ms. Calvillo:

Attached please find an original and three copies of proposed resolution for Board of Supervisors approval, which requests approval to execute the First Amendment to the Restated and Amended Towing Agreement and Property Use License between San Francisco Municipal Transportation Agency (SFMTA) and San Francisco AutoReturn.

The following is a list of accompanying documents:

- Resolution
- Briefing
- Amendment to the Towing Agreement
- Property-Use License for AutoReturn's use of part of 2650 Bayshore for long-term vehicle storage and auction premises
- Lease for use of 2650 Bayshore by SFMTA

Please do not hesitate to contact Steven Lee, Manager of Financial Services and Contracts at 701-4592 or steven.lee@sfmta.com with any questions or concerns with this item.

Thank you.

Sincerely,

Edward R. Reiskin
Director of Transportation

SFMTA
Municipal
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Agency

Edwin M. Lee, *Mayor*

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Cheryl Brinkman, *Vice-Chairman*
Jerry Lee, *Director*
Cristina Rubke, *Director*

Edward D. Reiskin, *Director of Transportation*

January 31, 2014

The Honorable Members of the Board of Supervisors
City and County of San Francisco
1 Dr. Carlton Goodlett Place, Room 244
San Francisco, CA 941023

Subject: ***Request for Approval to execute the First Amendment to the Restated and Amended Towing Agreement and Property Use License between the San Francisco Municipal Transportation Agency and San Francisco AutoReturn***

Honorable Members of the Board of Supervisors:

The San Francisco Municipal Transportation Agency recommends approval of the First Amendment to the current towing agreement that includes modifications to the financial assurance requirements for the contract and revisions of the associated License Agreement that reflect moving the long-term towed vehicle storage and auction location from Pier 70 to 2650 Bayshore Avenue.

Background
San Francisco AutoReturn has been the contractor for towing services since 2004, and is currently under an agreement for services through August 2015 that includes management of a long-term vehicle storage facility and vehicle auction area. At the time of contract award, a portion of Pier 70 served as the location of this facility; however, in 2011 the Port announced that a developer had been chosen to redevelop Pier 70, which necessitated relocating the long-term storage and auction facility.

In 2012, after approval from the Board of Supervisors (Resolution # 365-12), the SFMTA entered into a lease for occupation of property located at 2650 Bayshore Blvd., and in May 2013 exercised its right to move the long-term vehicle storage facilities from Pier 70 to the Bayshore location. AutoReturn will share the property with other SFMTA operations, including the Signal Shop and employee training facilities.

Requested Modifications
To document the long-term towing storage facility's move from Pier 70 to the Bayshore location, two appendices to the towing agreement – the previous MOU with the Port of San Francisco (Appendix C) and the existing license agreement (Appendix D) – will be deleted and a revised license agreement (Appendix H) will be added to reflect the new license agreement for the Bayshore facility. In addition, modifications will be made to the Amended and Restated Towing Agreement to reflect the changes in location and a modification to the financial assurance requirements requested by AutoReturn.

The proposed amendment to the towing contract and license agreement documents modifications that were negotiated between SFMTA and AutoReturn includes the following:

- The per month rent amount will be reduced from $150,378.75 to $147,928.28 resulting in a net monthly reduction of $2,450.47. The new amount reflects the reduction in space from 519,328 sq. ft. at Pier 70 to approximately 330,771 sq. ft. at the Bayshore facility. The reduction in space is offset by significantly improved facilities, including permanent office space with indoor plumbing and vehicle auction space free of roof leaks that will better accommodate the general public in a safe and secure environment.

- There will also be a modification to the current contract's financial assurances of a $1 million Letter of Credit and $1 million Performance Bond to a single $2 million Performance Bond. The Letter of Credit had been required by the Port out of an abundance of caution due the proximity of Pier 70 to the San Francisco Bay. The Bayshore location is inland on the border between San Francisco and Daly City and chances of a major environmental incident are substantially reduced. Since Auto Return provides service, the performance bond is better risk mitigation for this contract. In addition, the lease with the Bayshore property owner did not require a letter of credit and insurance requirements have been increased to match the SFMTA's Bayshore lease insurance requirements.

Under normal circumstances, the amendments to the contract and approval of the revised license agreement could be approved by the SFMTA Board of Directors; however, because the City Attorney has determined a change of the financial assurance from a letter of credit and a performance bond of $1 million each to a single $2 million performance bond is considered to be a material modification, Board of Supervisors approval is required.

We respectfully request that the proposed resolution of the First Amendment to the Restated and Amended Towing Agreement and Property Use License between SFMTA and San Francisco AutoReturn be approved.

Please don't hesitate to contact me should you have any questions or concerns.

Thank you.

Sincerely,

Edward R. Reiskin
Director of Transportation

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 14-016

WHEREAS, San Francisco AutoReturn has acted as contractor for towing services for the SFMTA since 2004 and is currently under an agreement for services through August 2015, including management of a long-term vehicle storage facility and vehicle auction area; and,

WHEREAS, At the time of contract award, a portion of the Port of San Francisco's Pier 70 served as the location of this facility; and,

WHEREAS, In 2011 the Port announced that a developer had been chosen to redevelop Pier 70, which necessitated relocating the long-term storage and auction facility; and,

WHEREAS, In 2012 the SFMTA entered into a lease for occupation of property located at 2650 Bayshore Blvd., and in May 2013 exercised its right to move the long-term vehicle storage facility to the Bayshore location; and,

WHEREAS, To document the long-term towing storage facility's move from Pier 70 to the Bayshore location, the contract and license agreement will be updated; and,

WHEREAS, The proposed amendment to the towing agreement modifies the current contract's financial assurances of a $1 million letter of credit and $1 million performance bond to a $2 million performance bond; and;

WHEREAS, The lease between the SFMTA and the Bayshore property owner does not require a letter of credit, and the performance bond, along with substantial insurance more accurately reflects that the towing agreement is primarily a service contract; and

WHEREAS, The Pier 70 per month rent amount of $150,378.75 will be reduced to $147,928.28 resulting in a net monthly reduction of $2,450.47; and

WHEREAS, The new amount was negotiated to reflect the reduction in space from 519,328 to approximately 330,771 sq. ft., offset by the significantly improved facilities, including permanent office space with indoor plumbing and vehicle auction space free of roof leaks which will better accommodate the general public in a safe and secure environment; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the Director of Transportation to execute the First Amendment to the Restated and Amended Towing Agreement and Property Use License for Towing, Storage and disposal of Abandoned and Illegally Parked Vehicles by and between the San Francisco Municipal Transportation Agency and TEGSCO, LLC d.b.a. San Francisco AutoReturn until July 31, 2015 to reduce the monthly rent by $2,450.47 and change the financial assurance

requirement from $1 million in a letter of credit and $1 million in a performance bond to a $2 million performance bond; and be it further

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors urges the Board of Supervisors to approve the first amendment to the towing agreement and the associated revised license agreement.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of January 21, 2014.

R. Boomer

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

City and County of San Francisco
Municipal Transportation Agency
One South Van Ness Ave. 7th floor
San Francisco, California 94103

First Amendment to Amended and Restated Service Agreement and Property Use License for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles

THIS AMENDMENT (this "Amendment") is made as of _____, in San Francisco, California, by and between TEGSCO, LLC, a California limited liability company doing business as San Francisco AutoReturn ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Municipal Transportation Agency ("SFMTA").

RECITALS

A. City and Contractor have entered into the Agreement (as defined below).

B. City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to reflect the relocation of the Secondary Storage Facility and one of the Designated Facilities from property owned by the Port of San Francisco at Pier 70 in San Francisco to a portion of the premises at 2650 Bayshore Boulevard in Daly City that City leases from Prologis, L.P.

NOW, THEREFORE, Contractor and the City agree as follows:

1. **Definitions.** The following definitions shall apply to this Amendment:

   a. **Agreement.** The term "Agreement" shall mean the Amended and Restated Service Agreement and Property Use License for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles dated July 31, 2010 between Contractor and City.

   b. **Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. **Modifications to the Agreement.** The Agreement is hereby modified as follows:

   a. **Section 1.29**

Section 1.29 of the Agreement is deleted in its entirety:

   b. **Section 1.42**

Section 1.42 of the Agreement is amended in its entirety to read as follows:

1.42 **Performance Bond:** The Performance Bond which Contractor is required to maintain to guarantee the performance of Contractor's obligations under this Agreement, as further described in Section 12.1 and 12.2 of this Agreement. The Performance Bond and all replacement Performance Bonds provided by Contractor during the Term of this Agreement shall be attached hereto as Appendix F and incorporated by reference as though fully set forth herein.

c. Section 1.44

Section 1.44 of the Agreement is deleted in its entirety.

d. Section 1.45

Section 1.45 of the Agreement is deleted in its entirety.

e. Section 1.48

Section 1.48 of the Agreement is amended in its entirety to read as follows:

1.48 **Property, Properties**: Real property owned or leased by the City and licensed to Contractor for the purpose of this Agreement, including a portion of the leased premises at 2650 Bayshore Boulevard in Daly City, and any other properties that may be licensed to Contractor by City for the purpose of this Agreement during its Term.

f. Section 1.57

Section 1.57 of the Agreement is amended in its entirety to read as follows:

1.57 **Secondary Storage Facility**: The facility primarily used for long term storage of impounded vehicles, located at 2650 Bayshore Boulevard in Daly City, California, as further described in Appendix A, Section 11.1(c).

g. Section 1.62

Section 1.62 of the Agreement is amended in its entirety to read as follows:

1.62 **Term**: The duration of this Agreement as established in Section 2 herein, and any additional period during which Contractor completes repair, remediation or other work required for the termination of the License agreement for 2650 Bayshore Boulevard in Daly City, as set forth in Appendix H of this Amendment ("the Bayshore License"), and the tasks listed in Section 54 of this Agreement for transition to a successor contractor or successor agreement.

h. Section 2

Section 2 of the Agreement is amended in its entirety to read as follows:

2. Term of the Agreement

The Term of this Agreement shall be five years, from the July 31, 2010 through July 31, 2015.

i. Section 4

Section 4 of the Agreement is amended in its entirety to read as follows:

4. Services Contractor Agrees to Perform

The Contractor shall tow and store any vehicles that SFMTA, DEPTH or the SPED orders removed from any public street or highway or from private property within the City, in accordance with the requirements of the San Francisco Transportation Code and the Vehicle Code, and shall perform such other related services as are described in this Agreement, in accordance with Appendix A, "Scope of Work," and Appendix B "Operations Plan". Appendix A, Appendix B, and the Operations Plan to be adopted and amended as provided in Section 14 of Appendix A are all attached hereto and incorporated by reference as though fully set forth herein. Rates and charges to the public for services under this Agreement shall be as set forth in Appendix F, attached hereto and incorporated by reference as though fully set forth herein.

All vehicle handling and storage required by this Agreement shall be conducted at one of the Designated Facilities. As of the Effective Date of the First Amendment to this Agreement and pursuant to the Bayshore License, City hereby licenses to Contractor the use of one of the real properties on which the Designated Facilities are currently located -- a portion of the premises at 2650 Bayshore Boulevard in Daly City. The Bayshore License is attached to the First Amendment to this Agreement as Appendix H and is incorporated by reference as though fully set forth herein. The parties acknowledge that Contractor's Customer Service Center and Primary Storage Facility operations are conducted at a property owned by Caltrans and leased by Contractor -- 450 7th Street. Should City cease to use Contractor for towing services, the terms for the City's continued use of the 450 7th Street property are attached hereto as Appendix G and are incorporated by reference as though fully set forth herein.

City hereby consents to Contractor's towing and storage of vehicles that are not towed or stored pursuant to a Tow Request with the prior written approval of City and subject to any conditions imposed in such written approval; provided however, that (I) Contractor shall at all times conduct itself in accordance with the Customer service standards of this Agreement so as not create any negative effect on Contractor's public image and reputation as the City's towing contractor, and (ii) Contractor's operations with respect to such vehicles shall not create any adverse impact on its performance of all requirements of this Agreement. City may revoke its consent at any time without cause by written notice to Contractor. The following sections of this Agreement shall apply to any towing or storage of vehicles by Contractor within the City and County of San Francisco that are not towed or stored pursuant to a Tow Request: Amended and Restated Service Agreement Sections 8, 9, 11, 12, 13, 14, 15, 16, 17, 20, 22, 26, 27, 28, 29, 31, 32, 35, 37, 38, 40, 41, 42, 50; Appendix A Sections 1, 3, 4, 5, 6, 7, 9, 11, 12.1(b), 12.3, 12.5, 12.6, 13, 14; Appendix B, Appendices E and F, and the Bayshore License during its term, if such towed or stored vehicle is taken to the Secondary Storage Facility.

j. Section 11

Section 11 of the Agreement is amended in its entirety to read as follows:

11. Required Insurance

Subject to approval by the City's Risk Manager of the insurers and policy forms, Contractor shall place and maintain throughout the Term of this Agreement, and pay the cost thereof, the following insurance policies:

11.1. Comprehensive general liability insurance with limits not less than $2,000,000 (such limit may be provided through a primary and excess policy) each Occurrence, combined single limit for bodily injury and property damage, or in such greater amount and limits as SFMTA may reasonably require from time to time, including coverage for contractual liability, personal injury, broad form property damage, products and completed operations, independent contractors (excluding towing and dismantling subcontractors), and mobile equipment.

11.2. Sudden and accidental pollution insurance with limits not less than $1,000,000 for each occurrence.

11.3. Comprehensive business/commercial automobile liability insurance with limits not less than $2,000,000 for each Occurrence combined single limit for bodily injury and property damage, including coverage for owned, non-owned and hired automobiles. If Contractor does not own or lease company vehicles that are subject to motor vehicle registration, then only non-owned and hired coverage is required.

11.4. Garage-keeper's legal liability insurance with limits not less than $5,000,000 (such limit may be provided through a primary and excess policy) for each Occurrence combined single limit for loss and damage to vehicles in Contractor's care, custody or control caused by fire, explosion, theft, riot, civil commotion, malicious mischief, vandalism or collision, with any deductible not to exceed $25,000 for each Occurrence. Contractor may insure or self-insure loss of non-automobile property in the care, custody, or control of the garage keeper with a limit of $5000.

11.5. Workers' Compensation Insurance, including Employers' Liability, with limits not less than $1,000,000 for each accident, covering all Employees employed by Contractor in the performance of this Agreement to provide statutory benefits as required by the laws of the State of California. Said policy shall be endorsed to provide that the insurer waives all rights of subrogation against the City.

11.6. Environmental impairment liability insurance with limits not less than $1,000,000 each occurrence, covering the sudden and accidental release of hazardous materials and the resulting costs of clean up.

Except as set forth above, any deductibles in the policies listed above shall not exceed $25,000 each occurrence. The insurance policies shall be endorsed to name as an additional insured the City and County of San Francisco and its respective departments, commissioners, officers, agents and employees.

The agreements between the Contractor and its towing and dismantling subcontractors (as applicable) shall require that reasonable insurance is maintained and that the City will be named as an additional insured on the general liability policy.

11.7. Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies

separately to each insured against whom claim is made or suit is brought, but the inclusion of more than on insured shall not operate to increase the insurer's limits of liability.

Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

11.8. Regarding Workers' Compensation, Contractor hereby agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

11.9. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

11.10. Subject to the provisions of Section 18.1, should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

11.11. Before commencing any operations under this Agreement, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages, including additional insured endorsements and the policy declaration page for any umbrella policies, set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

11.12. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

k. Section 12.2

Section 12.2 of the Agreement is amended in its entirety to read as follows:

12.2 Performance Bond

12.2.1 Performance Guarantee. Upon the Effective Date of this Agreement, Contractor shall provide to the City, and shall maintain throughout the Term of this Agreement and for a period of at least ninety (90) days after expiration or termination of this Agreement, or until all of Contractor's obligations have been performed under this Agreement, whichever date is later, a performance guarantee of two million dollars ($2,000,000), which shall consist of a Performance Surety Bond of two million dollars ($2,000,000) in favor of the City and County of San Francisco, a municipal corporation, acting by and through its Municipal Transportation Agency, guarantying the faithful performance by Contractor of this Agreement and of the covenants, terms and conditions of

this Agreement, including all monetary obligations set forth herein, and including liquidated damages and any dishonesty on the part of Contractor.

The City may draw upon such Performance Surety Bond in circumstances which include, but are not limited to:

a. To ensure regulatory compliance in the event that Contractor receives a notice of violation or other regulatory order from a governmental or regulatory agency with jurisdiction over Contractor's operations or the Properties used by Contractor for the performance of this Agreement and Contractor does not achieve compliance with the notice of violation or order to the satisfaction of the issuing agency within the time specified by the agency or by the City if the agency does not specify a timeframe.

b. To reimburse the City for any fine or other charge assessed against the City related to any notice of violation or other regulatory order issued to Contractor.

c. To reimburse the City for costs associated with City's environmental assessments or corrective action related to Contractor's violation of any of the requirements of Appendix H, which may be performed at the City's sole discretion.

d. To satisfy any overdue payment obligations owed by Contractor to City pursuant to the Bayshore.

e. To satisfy fines assessed by City against Contractor pursuant to the Bayshore License.

f. To compensate City for losses or damage to property caused by Contractor.

12.2.2 Performance Surety Bond Requirements. The Performance Surety Bond required by this Section 12 shall be issued on a form and issued by a financial institution acceptable to the City in its sole discretion, which financial institution shall (a) be a bank, insurance or trust company doing business and having an office in the State of California, (b) have a combined capital and surplus of at least $25,000,000, and (c) be subject to supervision or examination by federal or state authority. If Contractor defaults with respect to any provision of this Agreement, City may, but shall not be required to, make its demand under said Performance Surety Bond for all or any portion thereof, to compensate City for any loss or damage which City may have incurred by reason of Contractor's default or dishonesty, including (but not limited to) any claim for fines or liquidated damages; provided, however, that City shall present its written demand to said bank, insurance or trust company for payment under said Performance Surety Bond only after City first shall have made its demand for payment directly to Contractor, and five (5) full days have elapsed without Contractor having made payment to City.

12.2.3 Expiration or Termination of Performance Surety Bond. The term of the Performance Surety Bond shall apply for individual one-year periods, and may be extended by the insurance, bank or trust company by Continuation Certificate. The insurance, bank or trust company herein may, if it so elects, terminate its obligation under this bond by serving at least forty five (45) days written notice of its intention to do so upon the SFMTA. In the event the City receives notice from the issuer of the Performance Surety Bond that the Performance Surety Bond will be terminated, not renewed or will otherwise be allowed to expire for any reason during the

period from the commencement of the Term of this Agreement to ninety (90) days after the expiration or termination of this Agreement or the conclusion of all of Contractor's obligations under the Agreement, whichever occurs last, and Contractor fails to provide the City with a replacement Performance Surety Bond (in a form and issued by a financial institution acceptable to the City) within ten (10) days following the City's receipt of such notice, such occurrence shall be an Event of Default as defined in Section 18 of this Agreement. However, neither nonrenewal by the insurance, bank or trust company, nor the failure or inability of the Contractor to file a replacement bond in the event of nonrenewal, shall itself constitute a loss to the City recoverable under the Performance Surety Bond or any renewal or continuation thereof. Insurance, bank or trust company's liability under the Performance Surety Bond and all continuation certificates issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in the Performance Surety Bond or in any additions, riders, or endorsements properly issued by the insurance, bank or trust company as supplements thereto.

12.2.5 Demands Upon Performance Surety Bond. City may use all or any portion of the Performance Surety Bond to compensate City for any loss or damage that it may have incurred by reason of Contractor's negligence or breach. Such loss or damage may include without limitation any damage to or restoration of the Properties for which Contractor is responsible, and claims for fines and/or liquidated damages. Should the City terminate this Agreement due to a breach by Contractor, the City shall have the right to draw from the Performance Surety Bond those amounts necessary to pay any fees or other financial obligations under the Agreement or the Bayshore License, and perform the towing and storage services described in this Agreement until such time as the City procures another contractor and the agreement between the City and that contractor becomes effective.

12.2.6 Depletion of Performance Surety Bond. If any portion of the Performance Surety Bond is used by City, Contractor shall provide written proof that the Performance Surety Bond has been restored to its initial value, which shall require a replacement Performance Surety Bond in the face amount of the required Performance Surety Bond. Contractor's failure to do so within the time limits specified in Section 18.1.1(f) shall constitute an Event of Default as defined in Section 18 of this Agreement.

12.2.7 Dispute Resolution. In the event that a dispute arises between the City and Contractor concerning this Agreement or the use or maintenance of the Performance Surety Bond, Contractor may appeal to the Director of Transportation within fourteen (14) days of demand on the Performance Surety Bond with evidence supporting Contractor's claim for relief from the demand on the Performance Surety Bond. The Director of Transportation will respond within fourteen (14) days. Any failure of the Director of Transportation to respond within fourteen (14) days shall be deemed a rejection of Contractor's claim for relief from the demand on the Performance Surety Bond. Contractor's claim for relief from demands on the Performance Surety Bond and the Director of Transportation's response to such demand shall constitute the administrative remedy for Agreement interpretation described in Section 46 herein. Each party reserves its remedies in equity and law. No decision by the City concerning the Performance Surety Bond shall prevent Contractor from seeking restoration of the funds by appropriate legal action.

l. Section 12.5

Section 12.5 of the Agreement is amended in its entirety to read as follows:

12.5 Environmental Oversight Deposit. Upon the Effective Date of this Agreement, Contractor shall provide to the City, and shall maintain and replenish throughout the term of the Bayshore License and for a period of at least ninety (90) days after termination or expiration of the Bayshore License, an Environmental Oversight Deposit in the amount of ten thousand dollars ($10,000), which shall be deposited in an account specified by City. If Contractor receives a notice of violation or other regulatory order from a governmental or regulatory agency with jurisdiction over 2650 Bayshore Boulevard, Daly City, California and or its operations), and such notice is not cured within fourteen (14) days, the City may draw from this deposit to reimburse the City for staff costs incurred by the City while inspecting site conditions and enforcing and administering the Hazardous Materials provisions of the Bayshore License. If Contractor receives a notice of violation or other regulatory order from a governmental or regulatory agency with jurisdiction over the site and or its operations, and such notice is cured within fourteen (14) days, the City may draw from this deposit in an amount not to exceed $500 to reimburse the City for staff costs incurred by the City. The City will submit an invoice to Contractor for any such costs, and Contractor will pay such invoiced amounts within thirty (30) days to replenish the Environmental Oversight Deposit. Contractor's failure to pay such costs within thirty (30) days, or to replenish the Environmental Oversight Deposit if drawn upon, will constitute an Event of Default.

m. Section 13

Section 13 of the Agreement is amended in its entirety to read as follows:

13. Insurance and Performance Guarantee Requirements

All insurance policies and Performance Surety Bonds obtained pursuant to this Agreement shall be endorsed to provide that thirty (30) days prior written notice of cancellation, non-renewal or reduction in coverage or limits shall be given to SFMTA in the manner and at the addresses specified below.

Two copies of any Performance Surety Bond, and two copies of each original policy or policy endorsement of insurance shall be provided to SFMTA upon the Effective Date of this Agreement, and complete copies of any insurance policies obtained pursuant to this Agreement shall be provided to SFMTA if requested at any time.

13.1 Upon City's request, Contractor shall provide satisfactory evidence that Contractor has adequately provided for Social Security and Unemployment Compensation benefits for Contractor's Employees.

Contractor shall comply with the provisions of any insurance policy covering Contractor or the City, and with any notices, recommendations or directions issued by any insurer under such insurance policies so as not to adversely affect the insurance coverage.

n. Section 15.

Section 15 of the Agreement is amended in its entirety to read as follows:

15. Indemnification

Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including Employees of Contractor or loss of or damage to property, resulting directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, the use of Contractor's facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City. The foregoing indemnification does not include the limitations on Contractor's liability described in Sections 24.3 and 24.8 of the Bayshore License.

In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

As to any intellectual property that Contractor provides to the City in the performance of this Agreement, Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons, arising as a consequence of the use by City of the intellectual property supplied by the Contractor, or any of its officers or agents.

o. Section 18.1.6

Section 18.1.6 of the Agreement is amended in its entirety to read as follows:

18.1.6 Failure of Contractor to timely perform its obligations under the Bayshore License.

p. Section 19.3

Section 19.3 of the Agreement is amended in its entirety to read as follows:

19.3 Duties Upon Termination. Upon termination of this Agreement, the City and Contractor shall promptly pay to the other, as soon as is determinable after the effective date of termination, all amounts due each other under the terms of this Agreement, and upon such payment neither shall have any further claim or right against the other, except as expressly provided herein.

Upon the effective date of termination, Contractor shall deliver to the SFMTA the originals of all books, permits, plans, Records, licenses, contracts and other documents pertaining to Contractor's operation under this Agreement, any insurance policies, bills of sale or other documents evidencing title or rights of the City, and any and all other Records or documents pertaining to Contractor's operation under this Agreement, any insurance policies, bills of sale or other documents evidencing title or rights of the City, and any and all other Records or documents pertaining to the Designated Facilities, whether or not enumerated herein, which are requested by the City or necessary or desirable for the ownership, leasing and operation of the Designated Facilities, which are then in possession of Contractor. Contractor further agrees to do all other things reasonably necessary to cause an orderly transition of the management and operation of the services provided by Contractor under this Agreement without detriment to the rights of the City or to the continued operation of such services.

q. Section 54.2

Section 54.2 of the Agreement is amended in its entirety to read as follows:

54.2 Contractor agrees to take all actions as may be necessary or as the City may direct for the protection and preservation of any property related to this Agreement that is in the possession of Contractor and in which City has or may acquire an interest, including any environmental remediation required under Appendix H. Contractor acknowledges that City has a vested interest for payment of fees for vehicles that Contractor has towed and/or is storing, and Contractor shall not impair said interest and shall take all actions reasonably necessary to safeguard City's interest in said towed and stored vehicles.

r. Section 4.5

Section 4.5 of Appendix A to the Agreement is amended in its entirety to read as follows:

4.5 No ID Vehicles

(a) **NO ID Designation.** All vehicles with no visible VIN shall be impounded under a "NO ID" number and shall be designated as a vehicle subject to Investigative Police Hold and held for inspection by the SFPD Auto Detail regardless of which City agency initiated the Tow Request. NO ID vehicles shall be included in regular reports to the SFPD of Police Hold vehicles as specified in Sections 4.6(d) and 13 of this Appendix A. Contractor shall keep NO ID vehicles within the NO ID area (excluding oversized vehicles), with the exception that Contractor shall move a NO ID vehicle out of the NO ID area within twenty-four (24) hours of receiving a request to do so by the SFPD.

(b) NO ID Procedure. If a VIN is found following inspection by the SPED, Contractor shall follow applicable lien sale provisions of the Vehicle Code for processing that vehicle. Otherwise, Contractor shall designate the vehicle as an "Unable to Identify" or "UNTIDY" vehicle and, after receipt of a written release by the SPED (DMV Form 462, "Public Agency Authorization of Disposal of Vehicle" or successor form), such UTID vehicle shall be disposed of as required by the Vehicle Code and in accordance with instructions on DMV Form 462 or

successor form.

(c) **SFPD Access to NO ID Vehicles.** Contractor shall allow SFPD personnel with written authorization from the Chief of Police or an officer designated by the Chief of Police to remove parts from any NO ID vehicle, except as prohibited by Appendix H.

s. Section 10.2

Section 10.2 of Appendix A to the Agreement is amended in its entirety to read as follows:

10.2 Network Connections. Within thirty (30) days of the Effective Date of the Agreement, or other date approved in writing by City, the Contractor shall provide data lines to connect the following locations to the Contractor's TVMS:

Contractor Division	Location
Customer Service Center	450 7th Street
Primary Storage Facility	450 7th Street
Secondary Storage Facility	2650 Bayshore Boulevard, Daly City

Note: Alternate sites may be approved by the City.

Contractor shall provide T1 Internet data lines that connect the Customer Service Center and Primary Storage Facility to the Contractor's TVMS. Contractor shall provide data connections to the Primary and Secondary Storage Facilities using a T1 data line. Contractor shall install a firewall at all locations where there is a direct connect to the Internet to ensure the security of the data.

Within thirty (30) days of the Effective Date of this Agreement, or other date approved in writing by City, Contractor shall provide a T1 data line that connects the Customer Service Center with the SFMTA server headquarters at 1 South Van Ness Avenue. This connection will be used to provide a connection to the Contractor's TVMS for City staff and create a pathway for the Contractor's staff and systems to access the City's CMS. At any time during the Term of this Agreement, with the City's prior, written approval, and subject to all the conditions contained in such approval, the parties may agree to eliminate the requirement for the T1 data line that connects the networks of the City and Contractor. Because both the CMS and TVMS systems can now be accessed directly via the Internet, the parties may agree to eliminate the T1 data line to simplify the systems administration for the City and Contractor, and to eliminate the monthly costs of both the data connection and the associated networking equipment (see Section 10.1).

Contractor shall provide the following City locations with real-time access to the Contractor's TVMS within thirty (30) days of the Effective Date of this Agreement:

City Division	Location
SFMTA Enforcement	505 7th Street
SFMTA Citation Division	11 South Van Ness Avenue
SFMTA Hearing Division	11 South Van Ness Avenue
SFMTA Administration	1 South Van Ness Avenue, 8th Floor
SFPD NOID Office	850 Bryant Street
SFPD STOP Program	850 Bryant Street

For users located at the City locations listed above who cannot connect to the Contractor's system using either a direct connection to the Internet or the data line connecting the Customer Service Center to 1 South Van Ness Avenue, Contractor shall configure a single Virtual Private

Network (VPN) utilizing 3DES encryption per location. Remote clients shall be able to connect to Contractor's network through remote VPN client software and DSL Internet connections. Contractor shall bear only the cost of the DSL Internet services and the corresponding DSL modems and/or routers. City shall identify and provide a computer (Windows XP, or later version) in each location on which the VPN client software will be installed, for which the DSL Internet service will be established, and for which the access to the Contractor's TVMS will be provided. The City shall also be responsible for any telecommunications cabling that is required for the DSL connections to be established in each location.

t. Section 11.1

Section 11.1 of Appendix A to the Agreement is amended in its entirety to read as follows:

11.1 Designated Facilities. Contractor shall use the Designated Facilities for all service requirements of this Agreement, except as otherwise approved in advance in writing by City. The location or relocation of any Designated Facility shall be subject to prior written approval by City. City hereby approves the current location of all Designated Facilities. Contractor may use Designated Facilities for towing and storing vehicles that are not towed or stored at the request of the City with the prior written approval of City and subject to any conditions imposed in such approval. Contractor may allow Employee and vendor parking at Designated Facilities, subject to any limitations set forth in the Bayshore License, so long as it does not interfere with Contractor's performance of towing and impound services to all standards and requirements of this Agreement.

(a) Customer Service Center. The Customer Service Center shall provide a location for Customers recovering vehicles in person to pay for towing and storage charges, Citation fees and penalties, and other applicable fees, and/or to process any documentation required for vehicle release. The Customer Service Center shall be open to the public twenty-four (24) hours per day, 365 days per year. If the Customer Service Center is relocated outside of the Hall of Justice at 850 Bryant Street, Contractor shall provide a security guard in any area open to the public at all times that such facility is open to the public at its sole expense. The Customer Service Center must be located at or near the Primary Storage Facility.

(b) Primary Storage Facility

(i) Authorized Facility. City hereby approves the lot at 450 7th Street as a Primary Storage Facility.

(ii) Vehicle Storage and Retrieval. Contractor must provide a covered area at the Primary Storage Facility where Customers can wait while their vehicle is being retrieved. The Primary Storage Facility shall be open twenty-four (24) hours per day, 365 days per year.

(iii) Tows to Primary Storage. Contractor shall take all towed vehicles to the Primary Storage Facility for short-term storage if they are not subject to a Police Hold or are not taken directly to the Secondary Storage Facility. Contractor shall store all towed vehicles at the Primary Storage Facility for twenty-four (24) hours after being towed, unless vehicles are required by this Agreement to be directly towed to the Secondary Storage Facility. Vehicles stored at the Primary Storage Facility may be moved to the Secondary Storage Facility after the first twenty-four (24) hours. Contractor shall ensure that it transfers vehicles from Primary to Secondary Storage frequently enough to ensure that there is, at all times, sufficient space for newly-towed vehicles to be received at the Primary Storage Facility. Contractor shall not conduct any vehicle maintenance or vehicle parts sales at the Primary Storage Facility, except for maintenance of forklifts or other lot operations equipment.

(c) Secondary Storage Facility

(i) Authorized Facility. City hereby grants Contractor a license to occupy and use the Property at 2650 Bayshore Boulevard, Daly City as a Secondary Storage Facility as of the Effective Date of the Agreement during the Term of and so long as the Contractor complies with the terms and conditions of Appendices C and D.

(ii) Vehicle Storage and Retrieval. Contractor shall use the Secondary Storage Facility to store vehicles, including vehicles towed directly to the Secondary Storage Facility and most vehicles which are not picked up by the public within twenty-four (24) hours. Contractor shall conduct vehicle lien sales at this location. This facility shall be open to the public from 8:00 a.m. to 6:00 p.m. Monday through Friday. Outside of operating hours, Contractor shall secure the Secondary Storage Facility using security personnel. All vehicles must be available for retrieval from the Secondary Storage Facility by Contractor's staff twenty-four (24) hours per day, 365 days per year, with the exception of the following categories of vehicles: (1) type II vehicles (more than 8,500 lbs. but less than 26,500 lbs., trucks, buses, and unattached trailers); (2) type V vehicles (more than 26,500 lbs., trucks, buses, and unattached trailers; (3) stolen recovery vehicles (vehicles stolen and recovered by SFMTA or SFPD); (4) hit and run vehicles (vehicles involved in hit and run accidents); (5) accident vehicles (vehicles involved in accidents and towed by the SFMTA or the SFPD); and (6) abandoned/missing parts vehicles (vehicles abandoned by owner/driver and missing parts).

(iii) Tows to Secondary Storage. Contractor shall tow all Scofflaw, arrest, accident, Abandoned, recovered stolen vehicles, oversized vehicles, SFPD STOP Administrative Police Hold vehicles, disabled vehicles, dilapidated vehicles and other vehicles as directed by the City directly to the Secondary Storage Facility. The specific policies for whether vehicles are towed to the Primary Storage Facility or directly to the Secondary Storage Facility may be changed at any time subject to City's prior written agreement.

(iv) Facility Management. Contractor agrees to assume all responsibilities for use of storage facilities at 2650 Bayshore Boulevard, Daly City in accordance with the Bayshore License attached as Appendix H to the First Amendment to this Agreement and incorporated by reference herein.

Contractor shall manage the Secondary Storage Facilities, in compliance with the Bayshore License, to meet the following guidelines:

(1) Contractor shall remove vehicles that have been legally cleared for disposal on a weekly basis.

(2) Contractor shall, at a minimum, hold a vehicle lien sale auction once a week.

(3) Vehicles shall be placed in such a way that no more than four (4) vehicles shall need to be moved to clear a passage for any vehicle.

(4) Two (2) feet of clearance space shall be maintained between the sides of all vehicles.

(5) The Secondary Storage Facility personnel shall comply with all municipal, state, and federal codes and safety regulations at all times.

(6) The Secondary Storage Facility shall be clean and maintained at all times.

(7) Facilities shall be screened from public view except for necessary gates.

(8) Gates shall be at least eight (8) feet high and maintained in good condition.

(9) The parking and storage surface shall be maintained in accordance with all requirements of Appendices B and the Bayshore License Agreement.

(10) Security systems, including ample lighting and a surveillance system, shall be in place and operational at all times for the entire area occupied by Contractor under the Bayshore.

(11) Contractor shall not permit the public to walk through the lot unescorted by an employee of Contractor.

(d) Central Dispatch. Contractor's Central Dispatch facility shall operate twenty-four (24) hours per day, 365 days per year. City hereby approves any location of Central Dispatch at the Primary Storage Facility or at Contractor's Headquarters Office, so long as Central Dispatch is located within the City and County of San Francisco.

(e) Changes in Facilities

(i) Approval. City may approve relocation of Designated Facilities, including shifting Contractor's operations between existing Designated Facilities, terminating the use of one or more Designated Facilities, or adding new Designated Facilities. Any such relocation or change to Designated Facilities shall require prior written approval of City.

(ii) Service Standards. In the event that City approves the relocation of any Designated Facility, the parties acknowledge that certain response times and maximum charges contemplated by this Agreement may require modification to take into account the changed geographic circumstances of Contractor's operations. Any written approval of a change to the Designated Facilities listed in this Agreement shall include a revised schedule of fees and/or response times to which the parties have agreed as part of the relocation, if necessary.

(iii) Consolidation. Contractor has relocated the Customer Service Center and Primary Storage Facility to a single location at the 450 7th Street site. Should City cease to use Contractor for towing services prior to February 28, 2015, the terms for City's continued use of the 450 7th Street property are set forth in Appendix G.

u. Section 11.2

Section 11.2 of Appendix A to the Agreement is amended in its entirety to read as follows:

11.2 Property Maintenance Requirements. All costs associated with maintenance of Designated Facilities shall be the sole responsibility of the Contractor.

All open areas within the Designated Facilities used for vehicle storage shall be maintained in a clean, secure, neat, and visually presentable manner. Contractor shall not dismantle or crush vehicles or remove vehicle fluids on the any of the facilities to be used in the performance of this Agreement except in compliance with environmental regulations and the applicable requirements of Appendices B and the Bayshore License Agreement. Any removal of fluids from vehicles shall be conducted in a manner that complies with all requirements of this Agreement, and may only be performed by a licensed contractor, and into portable containers that are immediately removed from the facility.

v. Section 12.1

Section 12.1 of Appendix A to the Agreement is amended in its entirety to read as follows:

12.1 Payments Due to City

(a) Referral Fee

Contractor shall submit to the City a Referral Fee of $20 per tow, excluding dropped tows as described in Appendix A, Section 4.2. The Referral Fee shall be the same for every type of vehicle, and shall increase each twelve (12) month period on each July 1st by the Consumer Price Index for the San Francisco Region as published by the United States Department of Labor, Bureau of Labor Statistics on January 1. Adjustments will be rounded to the nearest twenty-five cents ($0.25). No Referral Fee shall be paid for:

(1) Vehicles owned by the City under the jurisdiction of the SFMTA or the SFPD, or any other Courtesy Tow performed pursuant to Section 2.4 of this Appendix A, and

(2) Vehicles for which a waiver of towing, storage, transfer and/or lien fees is issued by SFMTA, DPH or SFPD.

(b) Percentage Fee

Contractor shall submit to the City a percentage fee of one percent (1%) on annual Gross Revenues from all money collected during the term of this Agreement. This fee shall be initially paid in the fifteenth (15th) month after the Agreement is signed, in the thirteenth (13th) month thereafter for the previous twelve (12) month term, and yearly thereafter.

(c) SFMTA Administrative Fees

Prior to releasing the vehicle, Contractor shall collect a pass-through SFMTA Administrative Towing Fee for all vehicles recovered by the vehicle owner. The amount of the SFMTA Administrative Towing Fee is subject to change in accordance with the provisions of San Francisco Transportation Code § 305. In addition, prior to releasing the vehicle, Contractor shall collect a pass-through daily SFMTA Administrative Storage Fee for stored vehicles based upon the number of days the vehicle has been stored prior to recovery by the vehicle owner. No Administrative Fee shall be collected for:

(1) Any vehicle owned by the City under the jurisdiction of the SFMTA or the SFPD, or any other Courtesy Tow performed pursuant to

Section 2.4 of this Appendix A.

(2) Any vehicle for which the Customer produces a written waiver of the SFMTA Administrative Fee issued by SFMTA, DPH or the SFPD.

(d) SFPD Traffic Offender Fee

If applicable, when a vehicle is sold at a lien sale and there are funds to satisfy all other fees as defined in Section 12.3(c) of this Appendix A, then Contractor shall pay to the SFPD or into an account designated by the SFPD an SFPD Traffic Offender Fee in an amount set by the San Francisco Police Commission. City and Contractor may agree in writing to utilize a mechanism other than the process described in Section 12.1(g) for collection of the SFPD Traffic Offender Fee.

(e) Citation Fees

Contractor shall collect payments of Citation fees from Customers with towed vehicles and from members of the public whose vehicles have not been towed, in accordance with all requirements set forth in this Agreement.

(f) Liquidated Damages and Fines

Contractor shall pay to City the amounts of any liquidated damages or fines assessed pursuant to this Appendix A, Section 15 and, Section 6.6 of the Bayshore License Agreement.

(g) Deposit of Fees Due to City

Except as otherwise specified herein, Contractor shall deposit all funds collected under this Section 12 within twenty-four (24) hours of receipt into an account specified by the City, Monday through Friday, not including weekends and holidays. Any funds with a deadline for deposit which falls on a weekend or a holiday shall be deposited no later than the next business day. All funds due to City under this Section shall be paid by Contractor without prior demand by the City and without any deduction, setoff, or counterclaim whatsoever, except as expressly provided herein. The parties may agree upon alternative procedures for Contractor's payment to City, but any such change must be approved in advance, by City, in writing.

(h) Payment Shortages

If Contractor fails to collect all amounts due from a Customer, Contractor shall be responsible to reimburse the City for any amounts not collected as required herein, unless the failure is caused solely by the negligence of City or a failure of the CMS. Contractor shall follow any procedures required by the City to report overages or shortages.

w. Section 14.2

Section 14.2 of Appendix A to the Agreement is amended in its entirety to read as follows:

14.2 Approval Process. All elements of the Operations Plan shall be subject to City review and approval. All Operations Plan elements must be initially submitted no later than the deadlines set forth in Appendix B for each Operations Plan element. The deadline for any Operations Plan element described in the Agreement may be extended by written approval of

SFMTA upon the request of and a showing of good cause by Contractor. City shall have sixty (60) days to review each element submitted, and either approve it as submitted or request revisions. Contractor shall respond to a request for revisions within twenty (20) days. City will have fifteen (15) days to either approve the revised Plan element or request further revisions. Contractor and City shall from this point on have five (5) days to either approve the revised Plan element as submitted, submit further requests for revisions or to respond to requests for revisions. Each revision must reflect tracking of document versions, including date and source of revisions, and each exchange of versions between the parties shall be accompanied by an executed document substantially in the form of Appendix B.

x. **Appendix C to the Agreement is deleted in its entirety.**

y. **Appendix D to the Agreement is deleted in its entirety and is replaced by Appendix H, which is attached to this Amendment.**

3. **Effective Date.** Each of the modifications set forth in Section 2 shall be effective on and after the date of this Amendment.

4. **Legal Effect.** Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY	CONTRACTOR
San Francisco **Municipal Transportation Agency** _____ Edward D. Reiskin Director of Transportation	**TEGSCO, LLC,** **d.b.a. San Francisco AutoReturn** _____ JOHN WICKER President and CEO 945 Bryant Street, Suite 350 San Francisco, CA 94103
Authorized by: Municipal Transportation Agency Board of Directors Resolution No: _____ Adopted: _____ Attest: _____ Roberta Boomer, Secretary SFMTA Board of Directors	
Approved as to Form: Dennis J. Herrera City Attorney By: _____ Mariam M. Morley Deputy City Attorney	
BOARD OF SUPERVISORS RESOLUTION NO._____ Dated:_____ ATTEST: _____ Angela Cavillo, Clerk of the Board	

APPENDIX H
TO THE TOWING AGREEMENT
BY AND BETWEEN
THE CITY AND COUNTY OF SAN FRANCISCO
AND
TEGSCO, LLC, d.b.a. SAN FRANCISCO AUTORETURN
Granting a Revocable License for the Use of Certain Property

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APPENDIX H

TO THE TOWING AGREEMENT
BY AND BETWEEN
THE CITY AND COUNTY OF SAN FRANCISCO
AND
TEGSCO, LLC, d.b.a. SAN FRANCISCO AUTORETURN

AMENDED AND RESTATED REVOCABLE LICENSE TO ENTER AND USE PROPERTY

THIS AMENDED AND RESTATED REVOCABLE LICENSE TO ENTER AND USE PROPERTY ("License"), between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), acting by and through its Municipal Transportation Agency ("SFMTA"), and TEGSCO, LLC, a California limited liability company, d.b.a. San Francisco AutoReturn ("Licensee"), and dated as of May , 2014, is Appendix H to the Amended and Restated Agreement and Property Use License for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles between City and Licensee, dated for convenience as July 31, 2010 (the "Original Towing Agreement"), as amended by the First Amendment to Amended and Restated Agreement and Property Use License dated as of May , 2014 (the "Towing Amendment"), which are incorporated herein by reference as if fully set forth herein.

RECITALS

This License is made with reference to the following facts:

A. City and Licensee are parties to the Original Towing Agreement and the Towing Amendment (together, the "Towing Agreement") for the towing and storage of abandoned and illegally parked vehicles.

B. As part of the Towing Agreement, City granted Licensee a license to use certain City property pursuant to a Revocable License for the Use of Certain Property on Pier 70, San Francisco, California, between Licensee and City, with an effective date of July 31, 2010 (as amended, the "Original License Agreement"), for the premises described in the Original License Amendment (the "Pier 70 License Area"), subject to the terms of a Memorandum of Understanding between the San Francisco Port Commission and SFMTA with an effective date of July 31, 2005, as amended.

C. City leases that certain real property commonly known as 2650 Bayshore Boulevard, Daly City, California (the "Property") from Prologis, L.P., a Delaware limited partnership ("Prologis") pursuant to an Industrial Lease between City and Prologis dated as of October 29, 2012, a copy of which is attached to this License as Attachment 1 (the "Lease").

D. Pursuant to Section 2.2.1 and Section 4.1 of the Original License Agreement, City relocated License from the Pier 70 License Area to the portion of the Property shown on Attachment 2 (the "Premises") and agrees to reduce the Base Fee (as defined in the Original License Agreement) through a rent credit to reflect Licensee's relocation costs from the Pier 70 License Area to the Premises and Licensee's increased operating cost at the Premises, and City and Licensee wish to amend and restate the Original License Agreement in its entirety in connection with such relocation and rent credit.

Therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. BASIC LICENSE INFORMATION

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

Licensor:	CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION
Licensee:	TEGSCO, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY D.B.A. SAN FRANCISCO AUTORETURN
Property (Section 2.1):	That certain real property commonly known as 2650 Bayshore Boulevard, Daly City, California, as fully described in Exhibit A to the Lease (the "Property").
Building (Section 2.1):	The building located on the Property.
Premises (Section 2.1):	The portions of the Property and Building depicted on Attachment 2 and comprised of approximately 330,771 square feet
Term (Section 4):	Commencement Date: The date this License is fully executed. Expiration Date: July 31, 2015, subject to any earlier termination of this License pursuant to the terms hereof.
Base Fee (Section 5):	Initial Monthly Fee: $150,378.75.
Permitted Use (Section 6.1):	Parking space for the storage and transfer of vehicles, public lien sale auctions and office space for the administration of Licensee's operations under the Towing Agreement.
Utilities and Services (Section 10):	Obtained and paid by Licensee at its sole cost, provided that Licensee shall reimburse City pursuant to Section 10 for the gas and electricity utilities provided by City to the Premises.
Security (Section 6.5):	Licensee shall be solely responsible for the security of the Premises.
Security Deposit (Section 24.10):	Provided under Section 12 [Financial Assurances] of the Towing Agreement.
Notices to the Parties: (Section 25.1)	Any notice, demand, consent or approval required under this License must be sent by first class certified U.S. mail with return receipt requested, or by overnight courier,

return receipt requested, with postage pre-paid. All other written communications, unless otherwise indicated elsewhere in this License, may be by first class U.S. mail, by email, or by facsimile. All communications related to this License shall be addressed as follows:

To Licensee:

San Francisco AutoReturn
Attention: John Wicker
945 Bryant Street
San Francisco, CA 94103
telephone : (415) 575-2355
facsimile: (415) 575-2341
Email: jwicker@autoreturn.com

To City:

City and County of San Francisco
Attention: Lorraine Fuqua
1 South Van Ness Avenue, Suite 800
San Francisco, CA 94102
telephone: 415-701-4678
facsimile: 415-701-4736
Email: lorraine.fuqua@sfmta.com

2. PREMISES

2.1 License Premises.

2.1.1 City confers to Licensee a revocable, personal, non-exclusive and non-possessory privilege to enter upon and use those certain premises identified in the Basic License Information and shown on Attachment 2, attached hereto and incorporated by reference as though fully set forth herein (collectively, the "Premises"), for the limited purpose and subject to the terms, conditions and restrictions set forth below. This License gives Licensee a license only, revocable at any time at the will of City, and notwithstanding anything to the contrary herein, this License does not constitute a grant by City of any ownership, leasehold, easement or other property interest or estate whatsoever in the Premises, or any portion thereof. The privilege given to Licensee under this License is effective only insofar as the rights of City in the Premises are concerned, and Licensee shall obtain any further permission necessary because of any other existing rights affecting the Premises. The area of the Premises specified in the Basic License Information shall be conclusive for all purposes hereof. The Premises, land upon which the Premises is located and all other improvements on and appurtenances to such land are referred to collectively as the "Premises."

2.1.2 City may, at City's sole and absolute discretion, relocate Licensee from any portion or all of the Premises to another location on the Property or other City property that City in its sole and absolute discretion deems suitable for the uses permitted hereunder; provided that such relocation shall not materially interfere with Licensee's ability to meet its obligations under the Towing Agreement. In the event of any such relocation, the new location shall become part or all of the Premises hereunder.

2.1.3 City may, at City's sole and absolute discretion, modify the original configuration of the Premises; provided that such modification shall not materially interfere with Licensee's ability to meet its obligations under the Towing Agreement, unless such modification is required under the Lease.

2.1.4 Licensee acknowledges that the interest of City in the Premises is limited to those rights conveyed to City pursuant to the Lease. Licensee hereby agrees to assume all

responsibility for and be bound by all covenants, terms and conditions made by or applicable to City under the Lease, and shall not take any actions that would cause the City to be in default under the Lease. In the event there are any inconsistencies between the provisions of this License and the Lease, the provisions of the Lease shall govern Licensee's use of the Premises hereunder.

2.2 Subordinate to Lease. This License is expressly made subject and subordinate to all the terms, covenants and conditions of the Lease, which are incorporated herein by reference (collectively, the "Lease Terms"). Licensee agrees to use the Premises in accordance with the Lease Terms and not take or fail to take any act that City would be required to not take or take under the Lease to comply with the Lease Terms.

2.3 Performance of Lease Obligations. Licensee further agrees to assume the obligation for performance of all City's obligations under the Lease with respect to the Premises, except as may be specifically modified by this License and excluding City's obligation to pay rent to Prologis under the Lease.

2.4 Amendments to Lease. Licensee agrees that City shall have the right to enter into amendments or modifications to the Lease without Licensee's prior written consent; provided, however, that if such proposed amendment or modification would materially affect Licensee's rights under this License, Licensee shall not be subject to such amendment or modification unless it consents to be subject thereto in writing. In the event Licensee fails within fifteen (15) business days to respond in writing to City's written request for such consent, then Licensee shall be deemed without further notice to have consented to City's request for consent.

2.5 Contact with Prologis. Licensee has no authority to contact Prologis or make any agreement with Prologis concerning the Premises or the Lease without City's prior written consent, and Licensee shall make payments of the Base Fee and any other charges payable by Licensee under this License only to City.

2.6 Prologis Duties. The Lease describes Prologis' duties with respect to the Property. City is not obligated to perform such Prologis' duties. If Prologis fails to perform its duties, Licensee shall provide notice to City. In no event shall City incur any liability, or otherwise be responsible, nor shall there be any set-off, deduction or abatement of any Base Fee or other amounts owed by Licensee to City pursuant to this License arising from Prologis' failure to comply with its duties. Notwithstanding anything to the contrary in the foregoing, if Prologis fails to perform its duties under the Lease and such failure materially interferes with Licensee's use of the Premises, Licensee shall be entitled to a proportionate abatement of the Base Fee to the extent City receives an abatement of rent for such failure under the Lease.

2.7 Termination of Lease. If the Lease is terminated for any reason during the Term, this License shall automatically terminate as of such Lease termination date.

3. INSPECTION OF PROPERTY; AS IS CONDITION

3.1 Inspection of Premises. Licensee represents and warrants that Licensee has conducted a thorough and diligent inspection and investigation of the Property and the suitability of the Premises for Licensee's intended use, either independently or through its officers, directors, employees, agents, affiliates, subsidiaries licensees and contractors, and their respective heirs, legal representatives, successors and assigns, and each of them. Licensee is fully aware of the needs of its operations and has determined, based solely on its own investigation, that the Premises is suitable for its operations and intended uses. Licensee further represents and warrants that Licensee has occupied the Premises since May 1, 2013.

3.2 As Is Condition. WITHOUT WAIVING ANY OF LICENSEE'S RIGHTS ESTABLISHED IN SECTIONS 24.3 AND 24.8 BELOW, LICENSEE ACKNOWLEDGES AND AGREES THAT THE PREMISES ARE BEING LICENSED AND HAVE BEEN ACCEPTED IN THEIR "AS IS" AND "WITH ALL FAULTS" CONDITION, WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, AND SUBJECT TO ALL APPLICABLE LAWS, RULES AND ORDINANCES GOVERNING THEIR USE, OCCUPANCY AND POSSESSION. LICENSEE ACKNOWLEDGES AND AGREES THAT NEITHER CITY NOR ANY OF ITS AGENTS HAVE MADE, AND CITY HEREBY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE RENTABLE AREA OF THE PREMISES, THE PHYSICAL, SEISMOLOGICAL OR ENVIRONMENTAL CONDITION OF THE PREMISES OR THE PROPERTY, THE PRESENT OR FUTURE SUITABILITY OF THE PREMISES FOR LICENSEE'S BUSINESS, OR ANY OTHER MATTER WHATSOEVER RELATING TO THE PREMISES, INCLUDING, WITHOUT LIMITATION, AND IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

3.3 Accessibility Inspection Disclosure. Licensee is hereby advised that the Premises have not been inspected by a Certified Access Specialist under California Civil Code Section 1938.

4. LICENSE TERM

4.1 Original Term. The privilege given to Licensee pursuant to this License is temporary only and shall commence upon the Commencement Date (as described in the Basic License Information) and shall terminate on July 31, 2015, or the date of earlier termination of this License pursuant to the terms of this License or the Towing Agreement (the "Expiration Date"). Without limiting any of its rights hereunder, City may at its sole option freely revoke this License at any time, without cause and without any obligation to pay any consideration to Licensee. Licensee acknowledges its receipt and acceptance of the Premises on May 1, 2013.

4.2 Early Termination. Without limiting any of its rights hereunder, City may at its sole option freely terminate this License as to all or a portion of the Premises without cause and without any obligation to pay any consideration to Licensee. In the event that City terminates this License as to a portion of the Premises under this Paragraph, the Base Fee will be reduced in proportion to the amount of square footage removed from the Premises and Licensee shall be solely responsible for all costs associated with such modifications or reconfiguration that City in its sole discretion deems necessary, including all costs incurred to relocate the operations, Premises, fences, gates, lights, driveways, and other improvements; provided, however, that City shall make good faith efforts to reach an agreement with Licensee regarding the nature and extent of such necessary modifications or reconfiguration.

5. FEE

5.1 Base Fee; Rent Credit. Throughout the Term commencing on the first day of the Term, Licensee shall pay to City the monthly Base Fee specified in the Basic License Information (the "Base Fee"), subject to the adjustments made pursuant to Section 5.2. Licensee shall pay the Base Fee to City monthly, in advance, on or before the first of the month for which the fee is due, without prior demand and without any deduction, setoff or counterclaim whatsoever, except as such deduction or setoff is specifically provided for in Section 5.6 [Abatement of Base Fee and Base Fee Credits]. The Base Fee shall be paid by wire transfer to the account designated by City in writing. If the first day of the Term occurs on a day other than the first day of a calendar month, then the Base Fee for such fractional month shall be prorated based on a thirty (30) day month.

City and Licensee acknowledge that, pursuant to Section 2.1.2 of the Original License Agreement, Licensee relocated from the Pier 70 License Area to the Premises on May 1, 2013, and continued to pay the full monthly license fee required under the Original License Agreement from May 1, 2013, through the first day of the month in which the Commencement Date occurs. To reimburse Licensee for its costs in relocating from the Pier 70 License Area to the Premises, and Licensee's increased monthly operating expenses at the Premises, on the Commencement Date, Licensee shall be entitled to a one-time rent credit equal to (i) $6,226.47, multiplied by (ii) the number of months between the Commencement Date and May 1, 2013. Such one-time rent credit shall be offset against the first monthly Base Fee payment made by Licensee pursuant to this License. City and Licensee further acknowledge that to reimburse Licensee for such relocation costs and increased monthly operating expenses, Licensee shall have the right to apply a rent credit in the amount of $6,226.47 per month against the monthly payments of the Base Fee for the period commencing on the first month immediately following the Commencement Date and terminating on the Expiration Date.

5.2 Adjustments in Base Fee. Commencing on August 1, 2014, the monthly Base Fee shall be adjusted to $154,212.23.

5.3 Late Charges. If Licensee fails to pay all or any portion of any payment to be made by Licensee to City pursuant to this License within five (5) days following the due date for such payment, such unpaid amount shall be subject to a late payment charge equal to six percent (6%) of the unpaid amount in each instance. The late payment charge has been agreed upon by City and Licensee, after negotiation, as a reasonable estimate of the additional administrative costs and detriment that City will incur as a result of any such failure by Licensee, the actual costs thereof being extremely difficult if not impossible to determine. The late payment charge constitutes liquidated damages to compensate City for its damages resulting from such failure to pay and shall be paid to City together with such unpaid amount.

5.4 Default Interest. Any payment to be made by Licensee to City pursuant to this License, if not paid within five (5) days following the due date, shall bear interest from the due date until paid at the rate of ten percent (10%) per year or, if a higher rate is legally permissible, at the highest rate an individual is permitted to charge under law. However, interest shall not be payable on late charges incurred by Licensee nor on any amounts on which late charges are paid by Licensee to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest shall not excuse or cure any default by Licensee.

5.5 Deduction from Amounts Due. In the event Licensee fails to pay any payment due hereunder for more than ten (10) days following the due date, City may deduct and withhold the amount of such payment, together with the amount of applicable late charges and default interest as provided herein, from any monies in City's possession due Licensee pursuant to the Towing Agreement.

5.6 Abatement of Base Fee and Base Fee Credits. During the Term, and subject to City's prior written approval (which shall not be unreasonably withheld), City shall grant abatement of the Base Fee or allow Licensee a credit that may offset from the Base Fee under the circumstances listed in this Section 5.6. All Base Fee abatements and credits available to Licensee shall be applied against the Base Fee payment obligation during the Term at a rate not greater than one half (½) of the applicable month Base Rent payment and shall be applied if and only if Licensee is in good standing and is not in default of any of the terms of this License. In the event that the total of Base Fee abatements or credits available to Licensee pursuant to this Section 5.6 exceeds an amount equal to one half (½) of the Base Fee payment for any one calendar month, the remaining available Base Fee credit shall be carried forward to successive calendar months at a rate not to exceed one half (½) of the applicable Base Fee payment, until all

available Base Fee credits have been fully applied. In no event, however, shall Licensee be entitled to the application of any Base Fee credits or the value thereof beyond the expiration or earlier termination of this License.

5.6.1 If the Premises ceases to be used for towing operations at any time due to damage sustained during the Term by fire, earthquake, or other casualty rendering the Premises unsuitable for occupancy as determined by the City of Daly City pursuant to the Daly City Building Code, or are otherwise deemed legally not useable for any reason, Licensee shall be entitled to an abatement in Base Fee to the same extent that City receives a Rent abatement pursuant to Section 12 of the Lease.

5.6.2 At any time during the Term of this License, City may elect to fund certain property maintenance, construction, improvements, systems development or staffing related to City towing and impoundment operations that are not the responsibility of Licensee under the Towing Agreement ("Projects"). City may require Licensee, upon ninety (90) day's written notice, to implement any such Project. In consideration for implementation of the Project by Licensee, City shall issue an appropriate Base Fee credit in the amount of the reasonable actual costs of the Project. No Project may be implemented without the prior written approval of the City, and all Project implementation must be in accordance with the scope, specifications, maximum costs and all other requirements provided in writing by City. Licensee shall be responsible for obtaining all required permits, governmental approvals and insurance for any Project, the reasonable actual costs of which shall be included in the Base Fee credit. After the completion of the Project, Licensee must deliver to City an itemized statement of the actual costs of the Project, accompanied by documentation substantiating all said expenditures. Such documentation of expenditures shall include: (i) copies of executed contracts; (ii) copies of invoices for labor, services and/or materials, copies of bills of lading, and/or copies of other bills or receipts for goods, materials and/or services; (iii) copies of canceled checks, and (iv) such other proofs of expenditure as may by reasonably requested by City. Such appropriate proofs of expenditure may include copies of canceled checks; copies of contracts or invoices for labor, services and/or materials marked "Paid", or otherwise evidenced as having been paid bills of lading marked "Paid"; other bills, contracts, receipts for goods materials and/or services marked "Paid" and such other proofs of expenditure as may be reasonably approved by City. All such proofs of expenditure must be directly attributable to the approved Project and may include materials purchased by City for installation by City but not the City's cost if it undertakes such installation.

6. USE OF PREMISES

6.1 Permitted Use. Licensee shall use and continuously occupy the Premises during the Term solely for temporary storage and transfer of vehicles, public lien sale auctions and related office use as necessary to meet its obligations under the Towing Agreement and for such other uses, if any, as may be specified in the Basic License Information, all to the extent permitted under the Lease Terms. Licensee shall not use the Premises for any other purpose without the prior written approval of City, including, without limitation, the following: (a) crushing or dismantling; (b) maintenance or fueling of vehicles, except as otherwise may be permitted under the Approved Operations Plan (as defined in Section 8.2); (c) selling vehicle parts from the Premises, (d) parking or storage of vehicles not covered under the Towing Agreement, or (e) parking for Licensee's employees, without the prior written approval of City and subject to availability of space necessary to fully perform Licensee's obligations under the Towing Agreement. All available space for vehicle parking shall be used for the purposes set forth in the Towing Agreement, except as otherwise expressly approved by City pursuant to this License. The washing of vehicles shall be with cleansing agents that are bio-degradable and non-toxic, and shall be in compliance with the Approved Operations Plan. No advertising or signage may be placed in or about the Premises without the prior written permission of City.

6.2 Use of Equipment and Machinery. Licensee shall have the right to place on the Premises all necessary equipment and machinery in connection with the permitted use of the Premises. It is understood and agreed that City is not responsible for loss of or damage to any Licensee-owned equipment herein involved, unless caused by the sole negligence of City's officers, agents, and employees.

6.3 Limitation to Described Purpose. Licensee may occupy and use the Premises solely for the purpose of fulfilling its obligations under the Towing Agreement to store and auction any vehicles towed pursuant to the terms of the Towing Agreement, and for incidental purposes related thereto. Adequate drop-off space must be provided so that tow and transport trucks can load and unload on the Premises. No loading, unloading, queuing, parking or storage of vehicles will be permitted on any remaining portion of the Property or any public streets or rights-of-way adjacent to the Property. All storage activities authorized by this License shall be restricted to the designated enclosed and visually screened area. Any use of the Premises by Licensee shall be subject to the requirements of the Approved Operations Plan.

6.4 No Unlawful Uses, Nuisances or Waste. Without limiting the foregoing, Licensee shall not use, occupy or permit the use or occupancy of any of the Premises in any unlawful manner or for any illegal purpose, or permit any offensive, noisy or hazardous use or any waste on or about the Premises. Licensee shall take all precautions to eliminate any nuisances or hazards relating to its activities on or about the Premises. Licensee shall not conduct any business, place any sales display, or advertise in any manner in areas outside the Premises or on or about the Property without the prior written permission of City.

6.5 Security. Licensee shall at all times provide security at a level acceptable to the City to protect the Premises and all vehicles stored therein, and the persons and property of owners of towed vehicles, against damage, injury, theft or other loss.

6.6 Fines. Without limiting City's other rights and remedies set forth in this License, if Licensee violates any of the following provisions governing its use of the Premises contained in this License or the Towing Agreement, City may impose a fine of $300 per day during which Licensee is in violation of any of the specified provisions: Sections 2, 6, 7, 8, 11, 19, 22, and 24 of this License; and Towing Agreement section 12.2. City may also impose this fine for Licensee's failure to submit any documents, reports or other items as and when required by any provision of this License.

The additional charges described in this Section 6.6 shall run from the date of City's notice to Licensee of the violation and shall continue until the violation is cured. All such accrued amounts under this Section shall be payable to City monthly in arrears at the same time, place and manner as the Base Fee is payable unless otherwise specified herein. City shall have the same remedies for a default in the payment of any such amounts as for a default in the payment of Base Fee. The parties agree that the charges described above represent a fair and reasonable estimate of the administrative cost and expense which City will incur due to such violations by reason of its inspections, issuance of charges and other costs.

If City initiates notice of a charge under this Section, Licensee may appeal such charge to SFMTA's Director of Transportation within fourteen (14) days of the notice with evidence supporting Licensee's claim for relief from the charge imposed. SFMTA's Director of Transportation will respond within fourteen (14) days. Any failure of SFMTA's Director of Transportation to respond within the fourteen (14) day period shall be deemed a rejection of Licensee's claim for relief from the charges imposed. The provisions of Section 46 of the Towing Agreement shall not apply to charges imposed under this Section.

City's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights under this License or at law or in equity; provided, however, that City agrees that once it has declared an "Event of Default" pursuant to Section 17 of this License, it will no longer impose any new charges with respect to such default. City shall have no obligation to Licensee to impose charges on or otherwise take action against any other person.

7. ALTERATIONS

7.1 Licensee's Alterations. Licensee shall not make, nor cause or suffer to be made, any alterations, installations, improvements, or additions to any improvements or to the Premises (including demolition or removal), installations, additions or improvements to the Premises, including but not limited to the installation of any appurtenances or trade fixtures affixed to the Premises, constructed by or on behalf of Licensee pursuant to the Towing Agreement, or any trailers, signs, roads, trails, driveways, parking areas, curbs, walks fences walls, stairs, poles, plantings or landscaping, (collectively, "Improvements" or Alterations," which words are interchangeable as used in this License) without first obtaining City's written approval and any required approvals of regulatory agencies having jurisdiction over the Premises. All Alterations shall be done at Licensee's expense in accordance with plans and specifications approved by City, only by duly licensed and bonded contractors or mechanics approved by City, and subject to any conditions that City may reasonably impose. City may require Licensee, at Licensee's expense, to obtain the prior written approval of City's Arts Commission with respect to any Alterations, to the extent the Arts Commission has jurisdiction over the design of such proposed alterations under City's Charter Section 5.103. All Alterations shall be subject to the following conditions:

7.1.1 All Alterations shall be constructed in a good and workerlike manner and in compliance with all applicable building, zoning and other laws, and in compliance with the terms of and the conditions imposed in any regulatory approval;

7.1.2 All Alterations shall be performed with reasonable dispatch, delays beyond the reasonable control of Licensee excepted; and

7.1.3 At the completion of the construction of the Alterations, Licensee shall furnish one (1) set of "as-built" drawings of the same made on or to the Premises. Unless otherwise stated as a condition of the regulatory approval, this requirement may be fulfilled by the submittal after completion of the Alterations of a hand-corrected copy of the approved permit drawing(s).

7.2 Title to Improvements. Except for Licensee's Personal Property (as defined in Section 7.3), or as may be specifically provided to the contrary in approved plans, all Alterations, equipment, or other property attached or affixed to or installed in the Premises at the Commencement Date or, by Licensee with the advance approval of City during the Term, shall, at City's sole discretion, remain City's property without compensation to Licensee or be removed at the termination of this License. Licensee may not remove any such Alterations at any time during or after the Term unless City so requests pursuant to Section 23 [Surrender of Premises], below.

7.3 Licensee's Personal Property. All furniture, trade fixtures, office equipment and articles of movable personal property installed in the Premises by or for the account of Licensee, without expense to City, and that can be removed without structural or other damage to the Premises (collectively, "Licensee's Personal Property") shall be and remain Licensee's property. Licensee may remove Licensee's Personal Property at any time during the Term, subject to the provisions of Section 23 [Surrender of Premises], below. Licensee shall pay any taxes or other

impositions levied or assessed upon Licensee's Personal Property, at least ten (10) days prior to delinquency, and shall deliver satisfactory evidence of such payment to City upon request.

7.4 City's Alterations of the Building and Building Systems. City reserves the right at any time to make alterations, additions, repairs, deletions or improvements to the common areas of the Premises or any other part of the Building or the heating, ventilating, air conditioning, plumbing, electrical, fire protection, life safety, security and other mechanical, electrical and communications systems located at the Premises ("Building Systems"), provided that any such alterations or additions shall not materially adversely affect the functional utilization of the Premises for the Permitted Use set forth in Section 6.1 [Permitted Use].

7.5 Removal of Alterations. At City's election made in accordance with this Section 7.5, Licensee shall be obligated at its own expense to remove and relocate or demolish and remove (as Licensee may choose) any or all Alterations which Licensee has made to the Premises, including without limitation all telephone wiring and equipment installed by Licensee. Licensee shall repair, at its own expense, in good workerlike fashion any damage occasioned thereby.

7.5.1 Notice of Removal. Prior to the termination of this License, City shall give written notice to Licensee specifying the Alterations or portions thereof that Licensee shall be required to remove and relocate or demolish and remove from the Premises, in accordance with this Section 7.5 (herein "Notice of Removal"). If termination is the result of loss or destruction of the Premises or any improvements thereon, City shall deliver said Notice of Removal to Licensee within a reasonable time after the loss or destruction. If Licensee fails to complete such demolition or removal on or before the termination of this License, City may perform such removal or demolition at Licensee's expense, and Licensee shall reimburse City upon demand therefor.

7.5.2 Removal of Non-Permitted Improvements. If Licensee constructs any Alterations to the Premises without City's prior written consent or without complying with this Section 7, then, in addition to any other remedy available to City, City may require Licensee to remove, at Licensee's expense, any or all such Alterations and to repair, at Licensee's expense and in good workerlike fashion, any damage occasioned thereby. Licensee shall pay any special inspection fees required by the City of Daly City for inspecting any Alterations performed by or for Licensee without required permits.

7.5.3 Alterations Not Subject to Removal. In conjunction with a request to make an Alteration under Section 7.1 above, Licensee may submit a request for a City determination of whether a proposed Alteration would or would not be required to be removed upon expiration or termination of this License. Licensee acknowledges that such a determination will be based, in part, on whether Prologis would require the removal of the proposed Alteration upon expiration or termination of the Lease. This Section 7.5.3 shall not apply to Alterations that are required by any regulatory authority to conform the Premises or any building thereon to a requirement of statute, ordinance or regulation.

8. REPAIRS AND MAINTENANCE

8.1 Licensee's Repairs. Licensee shall maintain, at its sole expense, the Premises in good repair and working order and in a clean, secure, safe and sanitary condition. Licensee shall promptly make all repairs and replacements: (a) at its sole expense, (b) by licensed contractors or qualified mechanics approved by City, (c) so that the same shall be at least equal in quality, value and utility to the original work or installation, (d) in a manner and using equipment and materials that will not interfere with or impair the use or occupation of the Premises, and (e) in accordance with the Lease and all applicable laws, rules and regulations (collectively,

"Applicable Law"). Licensee hereby waives all rights to make repairs at City's expense under Sections 1941 and 1942 of the California Civil Code or under any similar law, statute or ordinance now or hereafter in effect.

8.1.1 Removal of Refuse. All refuse, including tires, non-salvageable vehicle parts and litter, shall be removed from the Premises on a regular basis by an authorized refuse collection company. All trash areas shall be effectively screened from view and maintained in orderly manner. All trash and refuse containers shall be maintained in approved enclosures.

8.1.2 Storm Water Pollution Prevention. Licensee agrees to effect mechanisms to control stormwater pollution at the Premises to the reasonable satisfaction of City, which mechanism may include (by way of example and not limitation) good housekeeping and materials management practices, preventing run-on and run-off from materials storage areas, maintenance areas, or areas where contaminants may be present, installation and maintenance of catchments or absorbent pads in stormwater drains located at or servicing the Premises, or other pollution prevention practices appropriate to the facility and operations. Documentation of Licensee's pollution prevention practices shall be provided as part of the Approved Operations Plan. Licensee shall comply with all stormwater pollution control regulations applicable to the Property, and shall prepare and submit all stormwater permit applications and stormwater pollution control plans required for the Premises under any Applicable Law on or before the forty-fifth (45th) day immediately following the Commencement Date.

8.1.3 Repair of Any Damage. In the event that damage to any of the improvements to the Premises which are Licensee's obligation to maintain by reason of ordinary wear and tear or deterioration results in such improvements not meeting the standard of maintenance required by City for such uses as Licensee is making of the Premises, then Licensee shall have the independent responsibility for, and shall promptly undertake such maintenance or repair and complete the same with due diligence. If Licensee fails to do so after reasonable notice in writing from City, then in addition to any other remedy available to City, City may make such maintenance or repairs and Licensee shall reimburse City therefor. Work performed by the City pursuant to this Section 8.1.3 shall not be subject to any abatement of the Base Fee. The City, in its sole discretion, may obtain reimbursement for damages from Licensee's Letter of Credit required by Section 12.2 of the Towing Agreement ("Security Deposit"). Should the City obtain reimbursement for damages from the Security Deposit, Licensee shall promptly restore the Security Deposit to its original amount.

8.2 Approved Operations Plan. The 2005 Operations Plan approved by City pursuant to the Towing Agreement shall be revised for the Premises as follows. Within sixty (60) days of the Commencement Date, City shall review the proposed Operations Plan for 2650 Bayshore previously submitted by Licensee to City, and either approve it as submitted or request revisions. Licensee shall respond to a request for revisions within twenty (20) days. City shall have fifteen (15) days to either approve the revised Operations Plan as submitted, submit further requests for revisions, or respond to requests for revisions. Each revision must reflect tracking of document versions, including the date and source of revisions, and each exchange of versions between the parties shall be accompanied by an executed document substantially in the form of Appendix B to the Towing Agreement. The Operations Plan approved by City for the Premises shall be the "Approved Operations Plan".

9. LIENS AND ENCUMBRANCES

9.1 Liens. Licensee shall keep the Premises and the rest of the Property free from any liens arising out of any work performed, material furnished or obligations incurred by or for Licensee. In the event Licensee does not, within twenty (20) days following the imposition of any such lien, cause the lien to be released of record by payment or posting of a proper bond, City shall

have, in addition to all other remedies, the right, but not the obligation, to cause the lien to be released by such means as it shall deem proper, including, but not limited to, payment of the claim giving rise to such lien. All such sums paid by City and all expenses reasonably incurred by it in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to City by Licensee within thirty (30) days of demand by City. City shall have the right to post on the Premises any notices that City may deem proper for the protection of City, the Premises from mechanics' and materialmen's liens. Licensee shall give to City at least fifteen (15) days' prior written notice of commencement of any repair or construction on the Premises.

9.2 Encumbrances. Licensee shall not create, permit or suffer any liens or encumbrances affecting any portion of the Premises, the Property or City's interest therein or under this License.

10. UTILITIES AND SERVICES

10.1 Utilities and Services. Sewer, water, janitor service, telecommunications services and any other utilities (other than gas and electricity) or services shall be acquired and paid by Licensee, including the initial hook up to said utilities and services. City shall provide electricity and gas to the Premises, and on a quarterly basis, Licensee shall reimburse City in an amount equal to the lesser of (i) $3,000 per month, and (ii) fifty-nine and one-half percent (59.5%) of the gas and electricity charges incurred by City for the Property during such month. Licensee shall deliver such quarterly utility reimbursements to City within thirty (30) days of receiving City's invoice therefor, which shall include reasonable evidence of the gas and electricity charges incurred by City for the Property. If the Commencement Date occurs on a day other than the first day of a quarterly period, then the utility reimbursement to City for such fractional quarterly period shall be prorated based on a ninety (90) day quarter.

10.2 Utility Maintenance. Licensee shall be obligated, at its sole cost and expense, to repair and maintain in good operating condition all utilities located within the Premises and all utilities installed by Licensee (whether within or outside the Premises). If Licensee requests City to perform such maintenance or repair, whether emergency or routine, City may charge Licensee for the cost of the work performed at the then prevailing standard rates, and Licensee agrees to pay said charges to City promptly upon billing. Licensee shall pay for repair of utilities located outside the Premises (regardless of who installed the same) which are damaged by or adversely affected by Licensee's use of such utility and shall be responsible for all damages, liabilities and claims arising therefrom. The parties agree that any and all utility improvements shall become part of the realty and are not trade fixtures.

11. COMPLIANCE WITH LAWS AND RISK MANAGEMENT REQUIREMENTS

11.1 Compliance with Laws.

11.1.1 Licensee shall promptly comply, at its sole expense, with all present or future laws, judicial decisions, orders, regulations and requirements of all governmental authorities relating to the Premises or the use or occupancy thereof, whether in effect at the time of the execution of this License or adopted at any time thereafter and whether or not within the present contemplation of the parties.

11.1.2 Licensee further understands and agrees that it is Licensee's obligation, at its sole cost, to cause the Premises and Licensee's uses thereof to be conducted in compliance with the Americans with Disabilities Act, 42 U.S.C.A.§§ 12101 et seq. and any other disability access laws, rules, and regulations. Licensee shall not be required to make any structural alterations in order to comply with such laws unless such alterations shall be occasioned, in whole or in part, directly or indirectly, by Licensee's Alterations, Licensee's manner of using the Premises, or any act or omission of Licensee, its Agents or Invitees. Any Alteration made by or on behalf of

Licensee pursuant to the provisions of this Section shall comply with the provisions of Section 8.1 [Licensee's Repairs], above.

11.1.3 Licensee shall comply with all Fire Code requirements in its use and occupancy of the Premises.

11.1.4 The parties acknowledge and agree that Licensee's obligation to comply with all laws as provided herein is a material part of the bargained for consideration under this License. Licensee's obligation under this Section shall include, without limitation, the responsibility of Licensee to comply with Applicable Law by making substantial or structural repairs and modifications to the Premises (including any of Licensee's Alterations), regardless of, among other factors, the relationship of the cost of curative action to the fee under this License, the relative benefit of the repairs to Licensee or City and the degree to which the curative action may interfere with Licensee's use or enjoyment of the Premises. This section shall not apply to any non-compliance with laws relating to changes in use or configuration of the Premises requested by City.

11.2 Regulatory Approvals.

11.2.1 Responsible Party. Licensee understands and agrees that Licensee's use of the Premises and construction of any Alterations permitted hereunder may require authorizations, approvals or permits from governmental regulatory agencies with jurisdiction over the Premises. Licensee shall be solely responsible for obtaining any and all such regulatory approvals. Licensee shall not seek any regulatory approval without first obtaining the written consent of City hereunder. Licensee shall bear all costs associated with applying for and obtaining any necessary or appropriate regulatory approval and shall be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval, other than any conditions that may arise out of Hazardous Materials in, on, or under any part of the Building or other portion of the Premises that were present immediately prior to May 1, 2013, to the extent that such regulatory conditions relate to property conditions existing at such time, and except to the extent that the regulatory conditions relate to Licensee's exacerbation of any pre-existing condition; provided, however, that City shall not be required to engage in any work or incur any costs necessary to secure any regulatory approval or satisfy any condition imposed by a regulatory agency. Any fines or penalties levied as a result of Licensee's failure to comply with the terms and conditions of any regulatory approval shall be immediately paid and discharged by Licensee, and City shall have no liability, monetary or otherwise, for any such fines or penalties. As defined in Section 18.2 herein, Licensee shall Indemnify City and the other Indemnified Parties hereunder against all Losses arising in connection with Licensee's failure to obtain or comply with the terms and conditions of any regulatory approval.

11.2.2 City Acting as Leasehold Owner of Real Property. Licensee further understands and agrees that City is entering into this License in its capacity as a leasehold owner with a proprietary interest in the Premises and not as a regulatory agency with police powers. Nothing in this License shall limit in any way Licensee's obligation to obtain any required approvals from City departments, boards, agencies, or commissions having jurisdiction over the Premises or Licensee's activities at the Premises. By entering into this License, City is in no way modifying or limiting Licensee's obligation to cause the Premises to be used and occupied in accordance with all Applicable Law, as provided further above.

11.3 Compliance with City's Risk Management Requirements. Licensee shall not do anything, or permit anything to be done, in or about the Premises which would be prohibited by or increase the rates under a standard form fire insurance policy or subject City to potential premises liability. Licensee shall faithfully observe, at its expense, any and all requirements of

City's Risk Manager with respect to Licensee's use and occupancy of the Premises, so long as such requirements do not unreasonably interfere with Licensee's use of the Premises.

12. SUBORDINATION

This License is and shall be subordinate to the Lease (including Prologis' rights and City's obligations thereunder) and any reciprocal easement agreement, ground lease, facilities lease or other underlying leases or licenses and the lien of any mortgage or deed of trust, that may now exist or hereafter be executed affecting the Property, or any part thereof, or City's interest therein. Notwithstanding the foregoing, City or the holder shall have the right to subordinate any such interests to this License. Licensee agrees, however, to execute and deliver, upon demand by City and in the form requested by City, any additional documents evidencing the priority or subordination of this License.

13. INABILITY TO PERFORM

If City is unable to perform or is delayed in performing any of City's obligations under this License, by reason of acts of God, accidents, breakage, repairs, strikes, lockouts, other labor disputes, protests, riots, demonstrations, inability to obtain utilities or materials or by any other reason beyond City's reasonable control, no such inability or delay shall constitute an actual or constructive eviction, in whole or in part, or entitle Licensee to any abatement or diminution of fee or relieve Licensee from any of its obligations under this License, or impose any liability upon City or its Agents by reason of inconvenience, annoyance, interruption, injury or loss to or interference with Licensee's business or use and occupancy or quiet enjoyment of the Premises or any loss or damage occasioned thereby. Licensee hereby waives and releases any right to terminate this License under Section 1932, subdivision 1 of the California Civil Code or any similar law, statute or ordinance now or hereafter in effect.

14. DAMAGE AND DESTRUCTION

14.1 Damage and Destruction. If all or any portion of the Premises is damaged by fire or other casualty, City shall have no obligation to repair the Premises. City shall provide Licensee with a copy of the notice City receives from Prologis of Prologis' estimated time to restore such damage (the "Prologis Repair Notice") within ten (10) days of City's receipt of the Prologis Repair Notice. If the damage is not repaired within thirty (30) days, or the damage reasonably prevents Licensee from using a portion of the Premises in excess of 250 square feet, Licensee shall be entitled to a proportionate reduction of the Base Fee until the damage is repaired.

If the restoration time set forth in the Prologis Repair Notice (the "Repair Period") is estimated to exceed two hundred ten (210) days, City shall have the right to terminate this License by delivering written notice of such termination to Licensee within thirty (30) days of City's delivery of the Prologis Repair Notice to Licensee, in which event this License shall terminate as of the date specified in such termination notice.

If at any time during the last twelve (12) months of the Term of this License all or any portion of the Premises is damaged or destroyed, then Licensee may terminate this License by giving written notice to City of its election to do so within thirty (30) days after the date of the occurrence of such damage; provided, however, Licensee may terminate only if such damage or destruction substantially impairs its use or occupancy of the Premises for general office purposes. The effective date of termination shall be specified in the notice of termination, which date shall not be more than thirty (30) days from the date of the notice.

14.2 City Repairs. Notwithstanding anything to the contrary in this License, City shall have no obligation to repair the Premises in the event the damage or destruction, and in no event shall City be required to repair any damage to Licensee's Personal Property or any paneling, decorations, railings, floor coverings, or any Alterations installed or made on the Premises by or at the expense of Licensee.

14.3 Termination by City. In the event the Premises are substantially damaged or destroyed, Prologis intends to restore the Premises pursuant to the Lease, and City intends to use the restored Premises for public purposes inconsistent with this License, City may terminate this License upon written notice to Licensee.

14.4 Licensee Waiver. City and Licensee intend that the provisions of this Section govern fully in the event of any damage or destruction and accordingly, City and Licensee each hereby waives the provisions of Section 1932, subdivision 2, Section 1933, subdivision 4, Section 1941, and Section 1942 of the Civil Code of California or under any similar law, statute or ordinance now or hereafter in effect, to the extent such provisions apply.

15. EMINENT DOMAIN

15.1 Definitions.

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

15.1.2 "Date of Taking" means the earlier of (i) the date upon which title to the portion of the Premises taken passes to and vests in the condemner or (ii) the date on which Licensee is dispossessed.

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

15.2 General. If during the Term there is any Taking of all or any part of the Premises or any interest in this License, the rights and obligations of Licensee shall be determined pursuant to this Section. City and Licensee intend that the provisions hereof govern fully Licensee's rights in the event of a Taking and accordingly, Licensee hereby waives any right to terminate this License in whole or in part under Sections 1265.110, 1265.120, 1265.130 and 1265.140 of the California Code of Civil Procedure or under any similar law now or hereafter in effect.

15.3 Total Taking; Automatic Termination. If there is a total Taking of the Premises, then this License shall terminate as of the Date of Taking.

15.4 Partial Taking; Election to Terminate.

15.4.1 If there is a Taking of any portion (but less than all) of the Premises, then this License shall terminate in its entirety under either of the following circumstances: (i) if all of the following exist: (A) the partial Taking renders the remaining portion of the Premises unsuitable for continued use by Licensee for the permitted uses described in Section 6.1, (B) the condition rendering the Premises unsuitable either is not curable or is curable but neither City nor Prologis is willing or able to cure such condition, and (C) Licensee elects to terminate; or (ii) if City elects to terminate.

15.4.2 If Licensee elects to terminate under the provisions of this Section 15, Licensee shall do so by giving written notice to the City before or within thirty (30) days after the Date of Taking, and thereafter this License shall terminate upon the later of the thirtieth (30th) day after such written notice is given or the Date of Taking.

15.5 License Fee: Award. Upon termination of this License pursuant to an election under Section 15.4 above, then: (i) Licensee's obligation to pay the Base Fee shall continue up until the date of termination, and thereafter shall cease, except that fee shall be reduced as provided in Section 15.6 below for any period during which this License continues in effect after the Date of Taking, and (ii) City shall be entitled to the entire Award in connection therewith (including, but not limited to, any portion of the Award made for the value of Licensee's interest under this License), and Licensee shall have no claim against City for the value of any unexpired term of this License, provided that Licensee may make a separate claim for compensation, and Licensee shall receive any Award made specifically to Licensee, for Licensee's relocation expenses or the interruption of or damage to Licensee's business or damage to Licensee's Personal Property.

15.6 Partial Taking: Continuation of License. If there is a partial Taking of the Premises under circumstances where this License is not terminated in its entirety under Section 15.4 above, then this License shall terminate as to the portion of the Premises so taken, but shall remain in full force and effect as to the portion not taken, and the rights and obligations of the parties shall be as follows: (a) the Base Fee shall be reduced by an amount that is in the same ratio to the Base Fee as the area of the Premises taken bears to the area of the Premises prior to the Date of Taking; and (b) City shall be entitled to the entire Award in connection therewith (including, but not limited to, any portion of the Award made for the value of the License interest created by this License), and Licensee shall have no claim against City for the value of any unexpired term of this License, provided that Licensee may make a separate claim for compensation, and Licensee shall receive any Award made specifically to Licensee, for Licensee's relocation expenses or the interruption of or damage to Licensee's business or damage to Licensee's Personal Property.

15.7 Temporary Takings. Notwithstanding anything to contrary in this Section, if a Taking occurs with respect to all or any part of the Premises for a limited period of time not in excess of one hundred eighty (180) consecutive days, this License shall remain unaffected thereby, and Licensee shall continue to pay all fees and to perform all of the terms, conditions and covenants of this License. In the event of such temporary Taking, Licensee shall be entitled to receive that portion of any Award representing compensation for the use or occupancy of the Premises during the Term up to the total fee owing by Licensee for the period of the Taking, and City shall be entitled to receive the balance of any Award.

16. ASSIGNMENT AND SUBLETTING

Licensee shall not directly or indirectly (including, without limitation, by merger, acquisition or other transfer of any controlling interest in Licensee), voluntarily or by operation of law, sell, assign, encumber, pledge or otherwise transfer (collectively, "Assignment") any part of its interest in or rights with respect to the Premises, or permit any portion of the Premises to be occupied by anyone other than itself, or sublet or license any portion of the Premises (collectively, "Subletting"), without City's prior written consent in each instance, as provided herein.

17. DEFAULT; REMEDIES

17.1 Events of Default. Any of the following shall constitute an event of default by Licensee hereunder:

17.1.1 A failure to pay the Base Fee or any other amount payable under this License when due, and such failure continues for three (3) days after the date of written notice by City. However, City shall not be required to provide such notice with respect to more than two delinquencies and any such failure by Licensee after Licensee has received two (2) such notices shall constitute a default by Licensee hereunder without any further action by City or opportunity of Licensee to cure except as may be required by Section 1161 of the California Code of Civil Procedure.

17.1.2 A failure to comply with any other covenant, condition or representation under this License and such failure continues for fifteen (15) days after the date of written notice by City, provided that if such default is not capable of cure within such fifteen (15) day period, Licensee shall have a reasonable period to complete such cure if Licensee promptly undertakes action to cure such default within such 15-day period and thereafter diligently prosecutes the same to completion within sixty (60) days after the receipt of notice of default from City. City shall not be required to provide such notice with respect to more than two defaults and after the second notice any subsequent failure by Licensee shall constitute an event of default hereunder;

17.1.3 A vacation or abandonment of the Premises for a continuous period in excess of five (5) business days;

17.1.4 An uncured event of default under the Towing Agreement; or

17.1.5 An appointment of a receiver to take possession of all or substantially all of the assets of Licensee, or an assignment by Licensee for the benefit of creditors, or any action taken or suffered by Licensee under any insolvency, bankruptcy, reorganization, moratorium or other debtor relief act or statute, whether now existing or hereafter amended or enacted, if any such receiver, assignment or action is not released, discharged, dismissed or vacated within sixty (60) days.

17.2 City Rights Upon Default. Upon the occurrence of an event of default by Licensee, City shall have the right to terminate the License in addition to the following rights and all other rights and remedies available to City at law or in equity:

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

17.2.2 The rights and remedies provided by California Civil Code Section 1951.4 (continuation of lease after breach and abandonment), allowing City to continue this License in effect and to enforce all its rights and remedies under this License, including the right to recover the Base Fee as it becomes due, for so long as City does not terminate Licensee's right to possession, if Licensee has the right to sublet or assign, subject only to reasonable limitations. For purposes hereof, none of the following shall constitute a termination of Licensee's right of possession: acts of maintenance or preservation; efforts to relet the Premises or the appointment of a receiver upon City's initiative to protect its interest under this License; withholding consent to an Assignment or Sublicense, or terminating an Assignment or Sublicense, if the withholding or termination does not violate the rights of Licensee specified in subdivision (b) of California Civil Code Section 1951.4. If City exercises its remedy under California Civil Code Section 1951.4, City may from time to time sublet or license the Premises or any part thereof for such

term or terms (which may extend beyond the Term) and at such rent or fee and upon such other terms as City may in its sole discretion deem advisable, with the right to make alterations and repairs to the Premises. Upon each such subletting or sublicensing, Licensee shall be liable for Base Fee and any other amounts due hereunder, as well as the cost of such subletting or sublicensing and such alterations and repairs incurred by City and the amount, if any, by which fee owing hereunder for the period of such subletting or sublicensing (to the extent such period does not exceed the Term) exceeds the amount to be paid as rent or fee for the Premises for such period pursuant to such subletting or sublicensing. No action taken by City pursuant to this subsection shall be deemed a waiver of any default by Licensee, or to limit City's right to terminate this License at any time.

17.2.3 The right to have a receiver appointed for Licensee upon application by City to take possession of the Premises and to apply any fees or rental collected from the Premises and to exercise all other rights and remedies granted to City pursuant to this License.

17.3 City's Right to Cure Licensee's Defaults. If Licensee defaults in the performance of any of its obligations under this License, then City may, at its sole option, remedy such default for Licensee's account and at Licensee's expense by providing Licensee with three (3) days' prior written or oral notice of City's intention to cure such default (except that no such prior notice shall be required in the event of an emergency as determined by City). Such action by City shall not be construed as a waiver of such default or any rights or remedies of City, and nothing herein shall imply any duty of City to do any act that Licensee is obligated to perform. Licensee shall pay to City upon demand, all reasonable costs, damages, expenses or liabilities incurred by City, including, without limitation, reasonable attorneys' fees, in remedying or attempting to remedy such default. Licensee's obligations under this Section shall survive the termination of this License.

18. WAIVER OF CLAIMS; INDEMNIFICATION

18.1 Limitation on City's Liability: Waiver of Claims. Except as provided for in Sections 24.3 and 24.8, below, City shall not be responsible for or liable to Licensee, and Licensee hereby assumes the risk of, and waives and releases City and its Agents from all Claims (as defined below) for, any injury, loss or damage to any person or property in or about the Premises by or from any cause whatsoever including, without limitation, (i) any act or omission of persons occupying adjoining premises or any part of the Building adjacent to or connected with the Premises which are not occupied by City, (ii) theft, (iii) explosion, fire, steam, oil, electricity, water, gas or rain, pollution or contamination, (iv) stopped, leaking or defective Building Systems, (v) Building defects, and (vi) any other acts, omissions or causes. Nothing herein shall relieve City from liability caused solely and directly by the gross negligence or willful misconduct of City or its Agents, but City shall not be liable under any circumstances for any consequential, incidental or punitive damages.

18.2 Licensee's Indemnity. Except as provided for in Sections 24.3 and 24.8, below, Licensee, on behalf of itself and its successors and assigns, shall indemnify, defend and hold harmless ("Indemnify") the City and County of San Francisco, including, but not limited to, all of its boards; commissions, departments, agencies and other subdivisions, and Prologis, and all of their Agents, and their respective heirs, legal representatives, successors and assigns (individually and collectively, the "Indemnified Parties"), and each of them, from and against any and all liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties and expenses, including, without limitation, direct and vicarious liability of every kind (collectively, "Claims"), incurred in connection with or arising in whole or in part from: (a) any accident, injury to or death of a person, including, without limitation, employees of Licensee, or loss of or damage to property, howsoever or by whomsoever caused, occurring in or about the Property; (b) any default by Licensee in the observation or performance of any of

the terms, covenants or conditions of this License to be observed or performed on Licensee's part; (c) the use or occupancy or manner of use or occupancy of the Premises by Licensee, its Agents or Invitees or any person or entity claiming through or under any of them; (d) the condition of the Premises; (e) any construction or other work undertaken by Licensee on the Premises whether before or during the Term of this License; or (f) any acts, omissions or negligence of Licensee, its Agents or Invitees, in, on or about the Premises or the Property, all regardless of the active or passive negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on, the Indemnified Parties, except to the extent that such Indemnity is void or otherwise unenforceable under any Applicable Law in effect on or validly retroactive to the date of this License and further except only such Claims as are caused exclusively by the willful misconduct or gross negligence of the Indemnified Parties. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and the Indemnified Party's costs of investigating any Claim. Licensee specifically acknowledges and agrees that it has an immediate and independent obligation to defend the Indemnified Parties from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Licensee by an Indemnified Party and continues at all times thereafter. Licensee's obligations under this Section shall survive the termination of the License.

19. INSURANCE

19.1 Licensee's Insurance. Licensee, at its sole cost, shall procure and keep in effect at all times during the Term insurance for the Premises in the form and amounts and under the terms and conditions specified in the Section 11 of the Towing Agreement [Required Insurance].

19.2 Licensee's Personal Property. Licensee shall be responsible, at its expense, for separately insuring Licensee's Personal Property.

19.3 City's Self Insurance. Licensee acknowledges that City self-insures against casualty, property damage and public liability risks and agrees that City may at its sole election, but shall not be required to, carry any third party insurance with respect to the Premises or otherwise.

19.4 Waiver of Subrogation. Notwithstanding anything to the contrary contained herein, to the extent permitted by Licensee's policies of insurance and any third party insurance that City elects to carry with respect to the Premises, City and Licensee each hereby waive any right of recovery against the other party and against any other party maintaining a policy of insurance covering the Premises or the contents, or any portion thereof, for any loss or damage maintained by such other party with respect to the Premises or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of such other party. If any policy of insurance relating to the Premises carried by Licensee does not permit the foregoing waiver or if the coverage under any such policy would be invalidated due to such waiver, Licensee shall obtain, if possible, from the insurer under such policy a waiver of all rights of subrogation the insurer might have against City or any other party maintaining a policy of insurance covering the same loss, in connection with any claim, loss or damage covered by such policy.

20. ACCESS BY CITY

City reserves for itself and any of its designated Agents, the right to enter the Premises at all reasonable times, with or without advance notice, including, without limitation, in order to (i) oversee or inspect Licensee's operations or conduct any business with Licensee; (ii) show the

Premises to prospective Licensees or other interested parties, to post notices of non-responsibility, to conduct any environmental audit of Licensee's use of the Premises, to repair, alter or improve any part of the Building, Building Systems or the Premises, and for any other lawful purpose; or (iii) whenever City believes that emergency access is required. City shall have the right to use any means that it deems proper to open doors in an emergency in order to obtain access to any part of the Premises, and any such entry shall not be construed or deemed to be a forcible or unlawful entry into or a detainer of, the Premises, or an eviction, actual or constructive, of Licensee from the Premises or any portion thereof. Licensee shall not alter any lock or install any new or additional locking devices without the prior written consent of City. City shall at all times have a key with which to unlock all locks installed in the Premises (excluding Licensee's vaults, safes or special security areas, if any, designated by Licensee in writing to City).

21. LICENSEE'S CERTIFICATES

Licensee, at any time, and from time to time upon not less than ten (10) days' prior notice from City, shall execute and deliver to City or to any party designated by City a certificate stating: (a) that Licensee has accepted the Premises, (b) the Commencement Date and Expiration Date of this License, (c) that this License is unmodified and in full force and effect (or, if there have been modifications, that the License is in full force and effect as modified and stating the modifications), (d) whether or not there are then existing any defenses against the enforcement of any of Licensee's obligations hereunder (and if so, specifying the same), (e) whether or not there are any defaults then existing under this License (and if so specifying the same), (f) the dates, if any, to which the Base Fee and any other amounts owing under this License have been paid, and (g) any other information that may be required.

22. PREMISES MAINTENANCE REQUIREMENTS

Until the Approved Operations Plan is finalized pursuant to Section 8.2, the "Maintenance Plan" shall mean the Maintenance Plan attached as an exhibit to the 2005 Operations Plan approved by City pursuant to the Towing Agreement, modified as reasonably necessary (and with City's prior written consent to apply to the Premises instead of the Pier 70 License Area, provided Licensee obtains City's prior written consent to such modification. Once the Approved Operations Plan is finalized pursuant to Section 8.2, the "Maintenance Plan" shall mean the Maintenance Plan that is attached as an exhibit to the Approved Operations Plan. Licensee shall faithfully comply with the Maintenance Plan, and any violation of the Maintenance Plan shall be a violation of this Section 22. The Maintenance Plan shall include, at a minimum, the elements described in this Section 22.

22.1 Maintenance of Pavement. Licensee shall maintain the pavement in the Premises in good condition, including the vehicle and parts storage area, in order to prevent Releases of Hazardous Materials (as those terms are defined below) into or onto the Premises, the remainder of the Property, or the environment. Licensee shall inspect the pavement at least quarterly and shall record in written form the dates and times of such inspections, the name or names of the persons conducting the inspections, and any damage discovered to the pavement and its location. Licensee shall promptly repair any cracked or broken pavement and shall report such damage and repair to City. City shall have the right to enter and inspect the Premises from time to time to ensure Licensee's compliance with the terms of this License, including, without limitation, this Section 22.1 and Section 22.2 below.

(a) Licensee must furnish at its own cost sealed concrete pads and hazardous waste containment systems for removing and storing residual fluids and batteries from vehicles;

(b) Licensee shall clean up and remove all leaked or spilled fluids immediately upon discovery or upon notice by City in accordance with the Maintenance Plan.

(c) Licensee shall only store vehicles and parts in areas with pavement in good condition. Draining must take place on a sealed concrete pad with a containment system to collect residual fluids.

(d) Licensee must ensure that paving, including maintenance and repair, shall protect existing or future groundwater monitoring wells on the Premises.

22.2 Plan and Reporting. In addition to the requirements in Section 22.1 above, the Maintenance Plan shall provide for ongoing inspection, spill and drip response procedures, a maintenance schedule for pavement maintenance and repair of cracks and other identified deficiencies, staff training protocols, and supervised video or photo documentation of initial surface conditions and exit surface conditions. In addition to pavement maintenance, the Maintenance Plan shall include other property management protocols, including but not limited to, maintenance of fencing, lighting, signage and permanent or temporary buildings. The Maintenance Plan shall also include a reporting schedule, with submittal of reports at least quarterly, documenting maintenance performed. Such reports shall include, the following information:

(a) An initial survey of pavement condition as of May 1, 2013;

(b) Surface type and surface conditions at time of repair, including photographs of pre- and post-repair conditions;

(c) Repair procedure performed;

(d) Cost of repairs performed; and

(e) A final survey of pavement condition at the time of termination of Term.

23. SURRENDER OF PREMISES

Upon the Expiration Date or other termination of the Term of this License, Licensee shall immediately peaceably quit and surrender to City the Premises together with all Alterations approved by City in good order and condition, free of debris and any Hazardous Materials deposited on the Premises on or after May 1, 2013, except for normal wear and tear after Licensee's having made the last necessary repair required on its part under this License, and further except for any portion of the Premises condemned and any damage and destruction for which Licensee is not responsible hereunder. The Premises shall be surrendered free and clear of all liens and encumbrances other than liens and encumbrances existing as of the May 1, 2013, and any other encumbrances created by City.

Immediately before the Expiration Date or other termination of this License, Licensee shall remove all of Licensee's Personal Property as provided in this License, and repair any damage resulting from the removal. Notwithstanding anything to the contrary in this License, City can elect at any time prior to the Expiration Date or within thirty (30) days after termination of this License, to require Licensee to remove, at Licensee's sole expense, all or part of Licensee's Alterations or other improvements or equipment constructed or installed by or at the expense of Licensee, or any vehicles that City may in its sole and absolute discretion authorize to be stored

on the Premises after termination of this License, together with any Hazardous Materials contained within such vehicles.

Licensee shall promptly remove such items and shall repair, at its expense, any damage to the Premises resulting from the performance of its removal obligations pursuant to this Section. Licensee's obligations under this Section shall survive the Expiration Date or other termination of this License. Any items of Licensee's Personal Property remaining in the Premises after the Expiration Date or sooner termination of this License may, at City's option, be deemed abandoned and disposed of in accordance with Section 1980 et seq. of the California Civil Code or in any other manner allowed by law. Any expenses or costs incurred by City to discharge liens, remove Licensee's Personal Property or Alterations, or repair any damage for which Licensee is responsible shall be charged against Licensee's Security Deposit.

Concurrently with the surrender of the Premises, Licensee shall, if requested by City, execute, acknowledge and deliver to any instrument reasonably requested by City to evidence or otherwise effect the termination of Licensee's interest to the Premises and to effect such transfer or vesting of title to the Alterations or equipment which remain part of the Premises.

24. HAZARDOUS MATERIALS

24.1 Definitions. As used herein, the following terms shall have the meanings set forth below:

24.1.1 "Environmental Laws" shall mean any present or future federal, state, local or administrative law, rule, regulation, order or requirement relating to Hazardous Material (including, without limitation, their generation, use, handling, transportation, production, disposal, discharge or storage), or to health and safety, industrial hygiene or the environment, including, without limitation, soil, air and groundwater conditions, including without limitation Article 21 of the San Francisco Health Code.

24.1.2 "Hazardous Material" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is at any time now or hereafter deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health, welfare or safety or to the environment. Hazardous Material includes, without limitation, any material or substance listed or defined as a "hazardous substance", or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 et seq.) or pursuant to the Carpenter-Presley-Tanner Hazardous Substance Account Act, as amended, (Cal. Health & Safety Code Sections 25300 et seq.) or pursuant to the Hazardous Waste Control Law, as amended, (Cal. Health & Safety Code Sections 25100 et seq.) or pursuant to the Porter-Cologne Water Quality Control Act, as amended, (Cal. Water Code Sections 13000 et seq.) or pursuant to Section 25501(o) of the California Health and Safety Code; and petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

24.1.3 "Indemnify" shall mean, whenever any provision of this Section 24 requires a person or entity (the "Indemnitor") to Indemnify any other entity or person (the "Indemnitee"), the Indemnitor shall be obligated to defend, indemnify, hold harmless and protect the Indemnitee, its officers, employees, agents, stockholders, constituent partners, and members of its boards and commissions harmless from and against any and all Losses arising directly or indirectly, in whole or in part, out of the act, omission, event, occurrence or condition with respect to which the Indemnitor is required to Indemnify such Indemnitee, whether such act, omission, event, occurrence or condition is caused by the Indemnitor or its agents, employees or contractors, or by any third party or any natural cause, foreseen or

unforeseen; provided that no Indemnitor shall be obligated to Indemnify any Indemnitee against any Loss from the negligence or intentional wrongful acts or omissions of such Indemnitee, or such Indemnitee's agents, employees or contractors. If a Loss is attributable partially to the negligent or intentionally wrongful acts or omissions of the Indemnitee (or its agents, employees or contractors), such Indemnitee shall be entitled to Indemnification for that part of the Loss not attributable to such Indemnitee's (or its agents, employees or contractors) negligent or intentionally wrongful acts or omissions.

24.1.4 "Investigate and Remediate" (also "Investigation" and "Remediation") shall mean the undertaking of any activities to determine the nature and extent of Hazardous Material that may be located in, on, under or about the Premises or surrounding property or that has been, is being or threaten to be Released into the environment, and to clean up, remove, contain, treat, stabilize, monitor or otherwise control such Hazardous Material.

24.1.5 "Losses" shall mean any and all claims, demands, losses, damages, liens, liabilities, injuries, deaths, penalties, fines, lawsuits and other proceedings, judgments and awards rendered therein, and costs and expenses, including, but not limited to, reasonable attorneys' fees.

24.1.6 "Release" when used with respect to Hazardous Material shall include any actual, threatened 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 any other part of the Premises or into the environment.

24.2 No Hazardous Materials. Licensee covenants and agrees that neither Licensee nor any of its Agents, Employees or Invitees shall cause or permit any Hazardous Material to be brought upon, kept, used, stored, generated, processed, produced, packaged, treated, emitted, discharged or disposed of in, on or about the Premises, or transported to or from the Premises without the prior written consent of City, which consent shall not be unreasonably withheld so long as Licensee demonstrates to City's reasonable satisfaction that such Hazardous Material is necessary to Licensee's business, will be handled in a manner which strictly complies with all Environmental Laws and will not materially increase the risk of fire or other casualty to the Premises, and without the prior written consent of Prologis. City and Licensee understand that the vehicles transported to and stored at the Property will contain and may partially consist of Hazardous Materials. Licensee shall immediately notify City if and when Licensee learns or has reason to believe a Release of Hazardous Material on or about any part of the Premises or the remainder of the Property has occurred that may require any Investigation or Remediation. Licensee shall not be responsible for the safe handling of Hazardous Materials introduced on the remainder of the Property during the Term of the Towing Agreement by City or its Agents.

Without limiting any other obligation of Licensee, if acts or omissions of Licensee results in any Hazardous Materials Release or contamination of the Premises, Licensee shall, at its sole expense, promptly take all action that is necessary to return the Premises to the condition existing prior to the introduction of such Hazardous Material in, on, under or about the Premises; provided that City approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions could not potentially have any material adverse effect upon the Premises.

24.3 Licensee's Environmental Indemnity. If Licensee breaches any of its obligations contained in this Section 24, or, if any act, omission or negligence of Licensee, its Agents, Employees or Invitees, results in any Release of Hazardous Material in, on or under any part of the Premises, or the remainder of the Property or the Building, then, Licensee shall, on behalf of itself and its successors and assigns, Indemnify the City from and against all Claims (including, without limitation, claims for injury to or death of a person, damages,

liabilities, losses, judgments, penalties, fines, regulatory or administrative actions, damages for decrease in value of the Premises or the remainder of the Building or the Property, the loss or restriction of the use of rentable or usable space or of any amenity of the Premises, or the remainder of the Building or the Property, damages arising from any adverse impact on marketing of any such space, restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or groundwater in, on or under the Premises, the remainder of the Property, or in any Improvements, and sums paid in settlement of claims, attorneys' fees, consultants' fees and experts' fees and costs) arising during or after the Term of the Towing Agreement and relating to such breach or Release. The foregoing Indemnity includes, without limitation, costs incurred in connection with activities undertaken to Investigate and Remediate any Release of Hazardous Material, and to restore the Premises or the remainder of the Building or Property to their prior condition. This indemnification of City by Licensee includes, but is not limited to, costs incurred in connection with any investigation of site conditions or any clean-up, remediation, removal or restoration work requested by Prologis or required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or groundwater in, on or under the Premises, the remainder of the Property or in any Alterations. Licensee's obligations hereunder shall survive the termination of this License. Licensee's obligations under this Section do not include an indemnity for Claims arising as a result of Hazardous Materials (or other conditions alleged to be in violation of any Environmental Law) in, on, or under any part of the Premises or the remainder of the Building or Property that were present prior to May 1, 2013, or to the extent that such Claims relate to conditions existing prior to May 1, 2013, except to the extent that Licensee exacerbates any pre-existing condition or introduces such Hazardous Materials or conditions. In the event any action or proceeding is brought against City by reason of a claim arising out of any Loss, Claim, injury or damage suffered on or about the Premises or the remainder of the Building or the Property for which Licensee has Indemnified the City and upon written notice from the City, Licensee shall at its sole expense answer and otherwise defend such action or proceeding using counsel approved in writing by the City. City shall have the right, exercised in its sole discretion, but without being required to do so, to defend, adjust, settle or compromise any claim, obligation, debt, demand, suit or judgment against the City in connection with this License or the Premises or the remainder of the Building or Property. The provisions of this paragraph shall survive the termination of this License with respect to any Loss occurring prior to or upon termination. Licensee and City shall afford each other a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, or other compromise or proceeding involving Hazardous Material.

24.4 Compliance with Environmental Laws. In addition to its obligations under Section 11 above, and without limiting any such obligations or the foregoing, Licensee shall comply with the following requirements or more stringent requirements in any Environmental Laws:

24.4.1 Any Hazardous Materials found and identified as such in the towed vehicles which are not typically part of a towed vehicle, will be removed from the vehicle to an appropriate storage location within 72 hours.

24.4.2 No Hazardous Materials shall be voluntarily or involuntarily disposed of onto or into the ground or into the sewer system.

24.4.3 In no event shall Hazardous Waste (as defined by Title 22 of the California Code of Regulations, as amended) accumulate on the Premises for longer than 90 days. Drums used to store Hazardous Materials shall not be stacked more than two drums

high. City will not consider fluids that are normally contained within a vehicle to be Hazardous Wastes so long as they remain contained within the vehicle.

24.4.4 Licensee shall store all Hazardous Materials above ground, not in underground storage tanks.

24.4.5 An emergency response plan, emergency response employee training plan and an inventory of Hazardous Materials stored at the Premises by or for Licensee shall be provided to City.

24.5 Information Requests. City may from time to time request, and Licensee shall be obligated to provide, information reasonably adequate for City to determine that any and all Hazardous Materials are being handled in a manner which complies with all Environmental Laws.

24.6 Damaged Vehicles. Licensee shall inspect all vehicles before storing them on the Premises to make a good faith effort to determine that vehicles are not leaking fluids, including but not limited to gasoline, battery acid, oil, transmission and transfer case fluids, brake and clutch fluids, and coolant. Licensee shall secure vehicles that have been severely damaged due to collision or vandalism so that parts do not fall off and fluids do not leak. Leaking vehicles shall be drained of the leaking fluid on a sealed cement pad, which Licensee shall maintain free of build-up of Hazardous Materials. Licensee shall immediately clean-up and remove all leaked or spilled fluids, whether within or outside of sealed or contained areas. Licensee shall treat all such fluids and used cleaning materials as hazardous waste and shall dispose of them in accordance with Environmental Laws and Section 24.3 above. Parts that have fallen off a vehicle shall be placed inside the vehicle in a manner that minimizes damage to the vehicle. Licensee shall not be deemed an owner or operator of any damaged vehicle, but shall be deemed the owner of any fluids that leak from such damaged vehicles on or about the Premises.

24.7 Fire Prevention Measures. Licensee shall comply with the following fire prevention measures.

24.7.1 Welding and torch cutting shall be in conformance with the Daly City Fire Code.

24.7.2 No smoking will be allowed in the Premises except in designated areas consistent with Applicable Law.

24.7.3 No crushing, burning of wrecked or discarded motor vehicles or waste materials shall be allowed.

24.7.4 Motor vehicles, parts of motor vehicles, junk, waste, or other materials shall not be stored, displayed, or kept in a manner that could hinder or endanger firefighting efforts and operations.

24.7.5 One or more aisles, at least 30 inches wide (or any greater width required under Applicable Law), must be maintained in the area where vehicles are stored, to permit access by the Daly City Fire Department to all parts of the vehicle storage area. Entrances and exits to the area shall be at least 15 feet in width (or any greater width required under Applicable Law).

24.8 Requirement to Remove. Prior to termination of this License or during the Term if required by a governmental agency, Licensee, at its sole cost and expense, shall remove any

and all Hazardous Materials introduced in, on, under or about the Premises by Licensee, its Agents or Invitees during the Term or during any prior time in which Licensee occupied the Premises. Licensee shall not be obligated to remove any Hazardous Material introduced onto the Premises before, during, or after the Term of the Towing Agreement by (1) City or its officers, directors, employees, or Agents or (2) any prior occupants, tenants, property owners, individuals, corporations or entities. If Licensee demonstrates its compliance with the property maintenance requirements of this License, the Maintenance Plan described in Section 22 above, there shall be a rebuttable presumption that any Hazardous Materials in, on, under or about the Premises were not introduced by Licensee, its Agents or Invitees. However, if Licensee does not demonstrate its compliance with the property maintenance requirements of this License or of the Maintenance Plan, then there shall be a rebuttable presumption that such Hazardous Materials are Licensee's responsibility to the extent that the presence of such Hazardous Materials bear a reasonable causal relationship to Licensee's non-compliance in their composition and location.

Prior to the termination of this License, at Licensee's expense, City and Licensee shall conduct a joint inspection of the Premises for the purpose of identifying Hazardous Materials on the Premises which can be determined to have been introduced by the Licensee and which Licensee is therefore required to remove. City's failure to conduct an inspection or to detect conditions if an inspection is conducted shall not be deemed to be a release of any liability for environmental conditions subsequently determined to be Licensee's responsibility.

24.9 Licensee's Environmental Condition Notification Requirements.

24.9.1 Notification of Any Release or Discharge. Licensee shall notify City in writing as required in the Maintenance Plan if Licensee learns or has reason to believe that a Release of any Hazardous Materials on or about any part of the Premises has occurred, whether or not the Release is in quantities that under any law would require the reporting of such Release to a governmental or regulatory agency.

24.9.2 Notification of Any Notice, Investigation, or Claim. Licensee shall also immediately notify City in writing of, and shall contemporaneously provide City with a copy of:

(a) Any written notice of Release of Hazardous Materials on the Premises that is provided by Licensee or any subtenant or other occupant of the Premises to a governmental or regulatory agency;

(b) Any notice of a violation, or a potential or alleged violation, of any Environmental Law that is received by Licensee or any subtenant or other occupant of the Premises from any governmental or regulatory agency;

(c) Any inquiry, investigation, enforcement, cleanup, removal or other action that is instituted or threatened by a governmental or regulatory agency against Licensee or subtenant or other occupant of the Premises and that relates to the Release of Hazardous Materials on or from the Premises;

(d) Any claim that is instituted or threatened by any third party against Licensee or any subtenant or other occupant of the Premises and that relates to any Release of Hazardous Materials on or from the Premises; and

(e) Any notice of the loss of any environmental operating permit by Licensee or any subtenant or other occupant of the Premises.

24.9.3 Notification of Regulatory Actions.

(a) Licensee shall immediately notify City in writing of any inspection by any governmental or regulatory agency with jurisdiction over Hazardous Materials and shall provide City with a copy of any inspection record, correspondence, reports and related materials from or to the agency.

(b) Licensee must notify City of any meeting, whether conducted face-to-face or telephonically, between Licensee and any regulatory agency regarding an environmental regulatory action. City will be entitled to participate in any such meetings at its sole election.

(c) Licensee must notify City of any environmental regulatory agency's issuance of an environmental regulatory approval. Licensee's notice to City must state the issuing entity, the environmental regulatory approval identification number, and the date of issuance and expiration of the environmental regulatory approval. In addition, Licensee must provide City with a list of any environmental regulatory approval, plan or procedure required to be prepared and/or filed with any regulatory agency for operations on the Property, including a "Spill Pollution Control and Countermeasure Plan." Licensee must provide City with copies of any of the documents within the scope of this Section upon City's request.

(d) Licensee must provide City with copies of all communications with regulatory agencies and all non-privileged communications with other persons regarding potential or actual Hazardous Materials Claims arising from Licensee's or its Agents' or Invitees' operations at the Property. Upon City's request, Licensee must provide City with a log of all communications withheld under a claim of privilege that specifies the parties to and subject of each withheld communication.

(e) City may from time to time request, and Licensee will be obligated to provide, information reasonably adequate for City to determine that any and all Hazardous Materials are being handled in a manner that complies with all Environmental Laws.

24.10 Environmental Security Deposit. Upon the Commencement Date, Licensee shall provide to the City, and shall maintain throughout the Term of this License and for a period of at least ninety (90) days after expiration of this License, a Security Deposit in the form of a Letter of Credit as described in the Towing Agreement Section 12.2. If Licensee receives a notice of violation or other regulatory order from a governmental or regulatory agency with jurisdiction over the Premises and or its operations and Licensee does not achieve compliance with the notice of violation or order to the satisfaction of the issuing agency within the time specified by the agency or by the City if the agency does not specify a timeframe, the City may draw upon the Letter of Credit for purposes of ensuring regulatory compliance. In addition, the City may draw upon the Letter of Credit in order to reimburse the City for any fine or other charge assessed against the City related to any notice of violation or other regulatory order issued to Licensee. The City may also draw upon the Letter of Credit in order

to reimburse the City for costs associated with City's environmental assessments or corrective action, which may be performed at the City's sole discretion.

24.11Environmental Oversight Deposit. Upon execution of the Towing Agreement, Licensee shall provide to the City, and shall maintain and replenish throughout the Term of this License and for a period of at least ninety (90) days after expiration of this License, an "Environmental Oversight Deposit" in the amount of $10,000, which shall be deposited in an account specified by City. If Licensee receives a notice of violation or other regulatory order from a governmental or regulatory agency with jurisdiction over the site and or its operations and such notice is not cured within fourteen (14) days, the City may draw from this deposit to reimburse the City for staff costs incurred by the City while inspecting site conditions and enforcing and administering the Hazardous Materials provisions of the License. If Licensee receives a notice of violation or other regulatory order from a governmental or regulatory agency with jurisdiction over the site and or its operations, and such notice is cured within fourteen (14) days, the City may draw from this deposit in an amount not to exceed $500 to reimburse the City for staff costs incurred by the City. City will submit an invoice to Licensee for any such costs, and Licensee will pay such invoiced amounts within thirty (30) days to replenish the Environmental Oversight Deposit. Licensee's failure to pay such costs within thirty (30) days, or to replenish the Environmental Oversight Deposit if drawn upon, will constitute an Event of Default.

24.12Hazardous Substance Disclosure. California law requires landlords to disclose to tenants the presence or potential presence of certain hazardous materials and hazardous substances prior to lease. Accordingly, Licensee is hereby advised that occupation of the Premises may lead to exposure to Hazardous Materials such as, but not limited to, gasoline, diesel and other vehicle fluids, vehicle exhaust, office maintenance fluids, asbestos, PCBs, tobacco smoke, methane and building materials containing chemicals, such as formaldehyde. Further, there were and may be Hazardous Materials located on the Premises, which are described in that certain Phase I Environmental Site Assessment prepared by URS Corporation Americas, dated July 29, 2011, and the memorandum from Robert Begley, of City's Department of Public Works, to Kerstin Magary, of SFMTA, dated May 11, 2012, (collectively, the "Environmental Reports"). Licensee acknowledges that copies of the Environmental Reports have been provided to it.

By execution of this License, Licensee agrees that the Environmental Reports, notices and warnings set forth in this Section 24 have been provided pursuant to California Health and Safety Code Sections 25359.7 and related statutes. City agrees to provide additional information that comes into its possession regarding hazardous substances on the Premises upon request of Licensee.

25. GENERAL PROVISIONS

25.1 Notices. Any notice, demand, consent or approval required under this License shall be effective only if in writing and given by delivering the notice in person or by sending it first-class certified mail with a return receipt requested or by overnight courier, return receipt requested, with postage prepaid, to: (a) Licensee (i) at the Premises, or (ii) at any place where Licensee or any Agent of Licensee may be found if sent subsequent to Licensee's vacating, abandoning or surrendering the Premises; or (b) City at City's address set forth in the Basic License Information; or (c) to such other address as either City or Licensee may designate as its new address for such purpose by notice given to the other in accordance with the provisions of this Section at least ten (10) days prior to the effective date of such change. Any notice hereunder shall be deemed to have been given two (2) days after the date when it is mailed if sent by first class or certified mail, one day after the date it is made if sent by overnight courier, or upon the date personal delivery is made. For convenience of the parties, copies of such

notices, demands, consents or approvals may also be given by telefacsimile to the telephone number set forth in the Basic License Information or such other number as may be provided from time to time; however, neither party may give official or binding notice by facsimile. All other written communications may be by first class U.S. mail, postage pre-paid, by email or by facsimile addressed with the contact information set forth in the Basic License Information.

25.2 No Implied Waiver. No failure by City to insist upon the strict performance of any obligation of Licensee under this License or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, no acceptance of full or partial Base Fee or any other amounts owing under this License during the continuance of any such breach, and no acceptance of the keys to or possession of the Premises prior to the expiration of the Term by any Agent of City, shall constitute a waiver of such breach or of City's right to demand strict compliance with such term, covenant or condition or operate as a surrender of this License. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. Any consent by City hereunder shall not relieve Licensee of any obligation to secure the consent of City in any other or future instance under the terms of this License.

25.3 Amendments. Neither this License nor any term or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by both parties hereto.

25.4 Authority. Each of the persons executing this License on behalf of Licensee does hereby covenant and warrant that Licensee is a duly authorized and existing entity, that Licensee has and is qualified to do business in California, that Licensee has full right and authority to enter into this License, and that each and all of the persons signing on behalf of Licensee are authorized to do so. Upon City's request, Licensee shall provide City with evidence reasonably satisfactory to City confirming the foregoing representations and warranties.

25.5 Parties and Their Agents; Approvals. The words "City" and "Licensee" as used herein shall include the plural as well as the singular. If there is more than one Licensee, the obligations and liabilities under this License imposed on Licensee shall be joint and several. As used herein, the term "Agents" when used with respect to either party shall include the agents, employees, officers, contractors and representatives of such party, and the term "Invitees" when used with respect to Licensee shall include the clients, customers, invitees, guests, licensees, assignees or sublicensees of Licensee. All approvals, consents or other determinations permitted or required by City hereunder shall be made by or through SFMTA unless otherwise provided in this License, subject to Applicable Law.

25.6 Interpretation of License.

25.6.1 The captions preceding the articles and sections of this License and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this License.

25.6.2 This License has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intents and purposes of the parties, without any presumption against the party responsible for drafting any part of this License.

25.6.3 Provisions in this License relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or City holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day.

25.6.4 Use of the word "including" or similar words shall not be construed to limit any general term, statement or other matter in this License, whether or not language of non-limitation, such as "without limitation" or similar words, are used.

25.6.5 Any capitalized term used herein shall be interpreted in accordance with the definition set forth in this License. If the capitalized term is not defined in this License Agreement, it shall be interpreted in accordance with the definition set forth in the Towing Agreement or the Lease.

25.6.6 Any inconsistency between this License, the Towing Agreement, and the Lease with respect to Licensee's performance of its obligations under the Towing Agreement shall be resolved by giving precedence in the following order: (a) the Towing Agreement; (b) the Lease; (c) this License.

25.7 Successors and Assigns. Subject to the provisions of this License relating to Assignment and subletting, the terms, covenants and conditions contained in this License shall bind and inure to the benefit of City and Licensee and, except as otherwise provided herein, their personal representatives and successors and assigns; provided, however, that upon any sale, assignment or transfer by City named herein (or by any subsequent Licensor) of its interest in the Premises as owner or lessee, including any transfer by operation of law, City (or any subsequent Licensor) shall be relieved from all subsequent obligations and liabilities arising under this License subsequent to such sale, assignment or transfer.

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

25.9 Governing Law. This License shall be construed and enforced in accordance with the laws of the State of California.

25.10Entire Agreement. This License, together with all exhibits hereto, which are made a part of this License, and the Towing Agreement, constitute the entire agreement between City and Licensee about the subject matters hereof and may not be modified except by an instrument in writing signed by the party to be charged. In the event of any conflict between the terms of the Towing Agreement and the terms of this License with respect to Licensee's activities and obligations at the Premises, the terms of the License shall control. All prior written or oral negotiations, understandings and agreements are merged herein. The parties further intend that this License shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts hereof and changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this License. Licensee hereby acknowledges that neither City nor City's Agents have made any representations or warranties with respect to the Premises or this License except as expressly set forth herein, and no rights, easements or licenses are or shall be acquired by Licensee by implication or otherwise unless expressly set forth herein.

25.11Attorneys' Fees. In the event that either City or Licensee fails to perform any of its obligations under this License or in the event a dispute arises concerning the meaning or interpretation of any provision of this License, the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder (whether or not such action is prosecuted to judgment), including, without limitation, court costs and reasonable attorneys' fees. For purposes of this License, reasonable fees of attorneys of City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

25.12Holding Over. Should Licensee hold over without City's consent, such holding over shall not be deemed to extend the Term or renew this License, but such term thereafter shall continue as a month-to-month occupancy. Such occupancy shall be on all the terms and conditions set forth in this License and the Base Fee payable by Licensee during the period of such holding over shall be one hundred fifty percent (150%) of the monthly Base Fee in effect during the last month of the Term of this License.

All other payments shall continue under the terms of this License. In addition, Licensee shall be liable for all damages incurred by City as a result of such holding over. No holding over by Licensee, whether with or without consent of City, shall operate to extend this License except as otherwise expressly provided, and this Section shall not be construed as consent for Licensee to retain possession of the Premises beyond such month to month holdover occupancy. For purposes of this Section, "possession of the Premises" shall continue until, among other things, Licensee has delivered all keys to the Premises to City, has fully vacated the Premises, and completely fulfilled all obligations required of it upon termination of the License as set forth in this License, including, without limitation, those concerning the condition and repair of the Premises.

25.13Time of Essence. Time is of the essence with respect to all provisions of this License in which a definite time for performance is specified.

25.14Cumulative Remedies. All rights and remedies of either party hereto set forth in this License shall be cumulative, except as may otherwise be provided herein.

25.15Provisions of License Surviving Termination. Termination of this License shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this License. This Section and the following Sections of this License shall survive termination or expiration of this License: Sections 2.1.4, 5, 6.6, 7, 12, 14, 17.2, 17.3, 18, 23, 24.1, 24.2, 24.3, 24.5, 24.8, 24.9, 24.10, 24.11, 25.6, 25.7, 25.8, 25.9, 25.10, 25.11, 25.12, 25.14, 25.22, 25.26, 25.31.

25.16Signs. Licensee agrees that it will not erect or maintain, or permit to be erected or maintained, any signs, notices or graphics upon or about the Premises which are visible in or from public corridors or other portions of any common areas of the Building or from the exterior of the Premises without City's prior written consent, which City may withhold or grant in its sole discretion.

25.17Relationship of the Parties. City is not, and none of the provisions in this License shall be deemed to render City, a partner in Licensee's business, or joint venturer or member in any joint enterprise with Licensee. Neither party shall act as the agent of the other party in any respect hereunder. This License is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided.

25.18Light and Air. Licensee covenants and agrees that no diminution of light, air or view by any structure that may hereafter be erected (whether or not by City) shall entitle Licensee to any reduction of the Base Fee under this License, result in any liability of City to Licensee, or in any other way affect this License or Licensee's obligations hereunder.

25.19No Recording. Licensee shall not record this License or any memorandum hereof in the public records.

25.20Drug-Free Workplace. Licensee acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City premises. Licensee agrees that any violation of this prohibition by Licensee, its Agents or assigns shall be deemed a material breach of this License.

25.21Public Transit Information. Licensee shall establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Licensee employed on the Premises, including, without limitation, the distribution to such employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the Premises and encouraging use of such facilities, all at Licensee's sole expense.

25.22Taxes, Assessments, Licenses, Permit Fees and Liens. (a) Licensee recognizes and understands that this License may create a possessory interest subject to property taxation and that Licensee may be subject to the payment of property taxes levied on such interest. (b) Licensee agrees to pay taxes of any kind, including possessory interest taxes, that may be lawfully assessed on the License interest hereby created and to pay all other taxes, excises, licenses, permit charges and assessments based on Licensee's usage of the Premises that may be imposed upon Licensee by law, all of which shall be paid when the same become due and payable and before delinquency. (c) Licensee agrees not to allow or suffer a lien for any such taxes to be imposed upon the Premises or upon any equipment or property located thereon without promptly discharging the same, provided that Licensee, if so desiring, may have reasonable opportunity to contest the validity of the same.

25.23Wages and Working Conditions. Licensee agrees that any person performing labor in the construction of any Alterations to the Premises, which Licensee provides under this License, 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 County. Licensee shall include in any contract for construction of such Alterations 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. Licensee 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 such any Alterations to the Premises.

25.24Non-Discrimination in City Contracts and Benefits Ordinance.

25.24.1 Covenant Not to Discriminate. In the performance of this License, Licensee 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 or Acquired Immune Deficiency Syndrome, HIV status (AIDS/HIV status), weight, height, association with members of classes protected under this chapter or in retaliation for opposition to any practices forbidden under this chapter against any employee of, any City employee working with, or applicant for employment with

such contractor and shall require such contractor to include a similar provision in all subcontracts executed or amended thereunder.

25.24.2 Subcontracts. Licensee shall include in all assignment, subleases or other subcontracts relating to the Premises a non-discrimination clause applicable to such assignee, sublicensee or other subcontractor in substantially the form of subsection (a) above. In addition, Licensee shall incorporate by reference in all assignments, subleases, and other 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 assignees, sublicensees and other subcontractors to comply with such provisions. Licensee's failure to comply with the obligations in this subsection shall constitute a material breach of this License.

25.24.3Non-Discrimination in Benefits. Licensee does not as of the date of this License and will not during the Term, in any of its operations in San Francisco, where the work is being performed for the City, or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

25.24.4HRC Form. As a condition to this License, Licensee 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.

25.24.5Incorporation 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 License of City property are incorporated in this Section 25.24 by reference and made a part of this License as though fully set forth herein. Licensee shall comply fully with and be bound by all of the provisions that apply to this License under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Licensee understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this License may be assessed against Licensee and/or deducted from any payments due Licensee.

25.25Non-Liability of City Officials, Employees and Agents. No elective or appointive board, commission, member, officer, employee or other Agent of City shall be, personally liable to Licensee, its successors and assigns, in the event of any default or breach by City or for any amount which may become due to Licensee, its successors and assigns, or for any obligation of City under this License.

25.26No Relocation Assistance: Waiver of Claims. Licensee acknowledges that it will not be a displaced person at the time this License is terminated or expires by its own terms, and Licensee fully RELEASES, WAIVES AND DISCHARGES forever any and all Claims against, and covenants not to sue, City, its departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, under any laws, including, without limitation, any and all claims for relocation benefits or assistance from City under federal and state relocation assistance laws (including, but not limited to, California Government Code

Section 7260 et seq.), except as otherwise specifically provided in this License with respect to a Taking.

25.27MacBride 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 then 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. Licensee acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

25.28Tropical Hardwood and Virgin Redwood Ban. 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 product. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Licensee shall not provide any items to the construction of Alterations, or otherwise in the performance of this License which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. In the event Licensee fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Licensee shall be liable for liquidated damages for each violation in any amount equal to Licensee's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater.

25.29Pesticide Prohibition. Licensee shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "Pesticide Ordinance") which **(i)** prohibit the use of certain pesticides on City property, **(ii)** require the posting of certain notices and the maintenance of certain records regarding pesticide usage and **(iii)** require Licensee to submit an integrated pest management ("IPM") plan to SFMTA that **(a)** lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Licensee may need to apply to the Premises during the terms of this License, **(b)** describes the steps Licensee will take to meet the City's IPM Policy described in Section 300 of the Pesticide Ordinance and **(c)** identifies, by name, title, address and telephone number, an individual to act as the Licensee's primary IPM contact person with the City. In addition, Licensee shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance.

25.30First Source Hiring Ordinance. The City has adopted a First Source Hiring Ordinance, San Francisco Administrative Code, Chapter 83, which establishes specific requirements, procedures and monitoring for first source hiring of qualified economically disadvantaged individuals for entry level positions. Upon request when applicable, Licensee shall enter into a First Source Hiring Agreement that meets the requirements of Section 83.9 of the First Source Hiring Ordinance.

25.31Sunshine Ordinance. In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, Licensees' 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.

25.32Conflicts of Interest. Through its execution of this License, Licensee 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 provision, and agrees that if Licensee becomes aware of any such fact during the Term, Licensee shall immediately notify the City.

25.33Charter Provisions. This License is governed by and subject to the provisions of the Charter of the City and County of San Francisco.

25.34Prohibition of Cigarette or Tobacco Advertising. Licensee acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on the Premises. This advertising 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 advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of cigarettes and tobacco products, or (ii) encourage people not to smoke or to stop smoking.

25.35Prohibition of Alcoholic Beverage Advertising. Licensee acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Premises. For purposes of this section, "alcoholic beverage" shall be defined as set forth in California Business and Professions Code Section 23004, and shall 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 (i) communicate the health hazards of alcoholic beverages, (ii) encourage people not to drink alcohol or to stop drinking alcohol, or (iii) provide or publicize drug or alcohol treatment or rehabilitation services

25.36Requiring Health Benefits for Covered Employees. Unless exempt, Licensee agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated herein by reference and made a part of this License as though fully set forth. The text of the HCAO is available on the web at http://www.sfgov.org/olse/hcao. Capitalized terms used in this Section and not defined in this License shall have the meanings assigned to such terms in Chapter 12Q.

25.36.1 For each Covered Employee, Licensee shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Licensee chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

25.36.2 Notwithstanding the above, if the Licensee is a small business as defined in Section 12Q.3(d) of the HCAO, it shall have no obligation to comply with Subsection 25.36.1 above.

25.36.3 Licensee's failure to comply with the HCAO shall constitute a material breach of this License. City shall notify Licensee if such a breach has occurred. If, within thirty (30) days after receiving City's written notice of a breach of this License for violating the HCAO, Licensee fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, Licensee fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue

the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

25.36.4 Any Subcontract entered into by Licensee shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Licensee shall notify City when it enters into such a Subcontract and shall certify to the City that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Licensee shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Licensee based on the Subcontractor's failure to comply, provided that City has first provided Licensee with notice and an opportunity to obtain a cure of the violation.

25.36.5 Licensee shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Licensee's compliance or anticipated compliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

25.36.6 Licensee represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

25.36.7 Licensee shall keep itself informed of the current requirements of the HCAO.

25.36.8 Licensee shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Sublicensees, as applicable.

25.36.9 Licensee shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least five (5) business days to respond.

25.36.10 City may conduct random audits of Licensee to ascertain its compliance with HCAO. Licensee agrees to cooperate with City when it conducts such audits.

25.36.11 If Licensee is exempt from the HCAO when this License is executed because its amount is less than Twenty-Five Thousand Dollars ($25,000), but Licensee later enters into an agreement or agreements that cause Licensee's aggregate amount of all agreements with City to reach Seventy-Five Thousand Dollars ($75,000), all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Licensee and City to be equal to or greater than Seventy-Five Thousand Dollars ($75,000) in the fiscal year.

25.37Notification of Limitations on Contributions. Through its execution of this License, Licensee 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, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six (6) months after the date the contract is approved. Licensee 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. Licensee further acknowledges that the prohibition on contributions applies to each Licensee; each member of Licensee's board of directors, and Licensee's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than twenty percent (20%) in Licensee; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Licensee. Additionally, Licensee acknowledges that Licensee must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Licensee further agrees to provide to City the name of each person, entity or committee described above.

25.38Preservative-Treated Wood Containing Arsenic. Licensee may not purchase preservative-treated wood products containing arsenic in the performance of this License 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. Licensee 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 Licensee 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.

25.39Resource Efficient City Buildings and Pilot Projects. Licensee acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 713 relating to the environmental design and construction of City buildings. Licensee hereby agrees that it shall comply with all applicable provisions of such code sections.

25.40Food Service Waste Reduction. Licensee agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this License as though fully set forth herein. This provision is a material term of this License. By entering into this License, Licensee agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine. Without limiting City's other rights and remedies, Licensee agrees that the sum of One Hundred Dollars ($100.00) liquidated damages for the first breach, Two Hundred Dollars ($200.00) liquidated damages for the second breach in the same year, and Five Hundred Dollars ($500.00) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time of the Commencement Date. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Licensee's failure to comply with this provision.

25.41References. No reference to this License Agreement is necessary in any instrument or document at any time referring to the Agreement. Any future reference to the Agreement shall be deemed a reference to such document as amended hereby.

25.42Counterparts. This License may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

25.43Effective Date. This License shall be effective, and the Original License Agreement shall be superseded and replaced in its entirety by this License, as of the Commencement Date.

25.44Cooperative Drafting. This License has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the License reviewed and revised by legal counsel. No party shall be considered the drafter of this License, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this License.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LICENSE, LICENSEE ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS LICENSE UNLESS AND UNTIL THE BOARD OF DIRECTORS OF CITY'S MUNICIPAL TRANSPORTATION AGENCY SHALL HAVE DULY ADOPTED A RESOLUTION APPROVING THE TOWING AMENDMENT AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED IN THIS LICENSE. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS LICENSE SHALL BE NULL AND VOID IF THE BOARD OF DIRECTORS OF CITY'S MUNICIPAL TRANSPORTATION AGENCY DO NOT APPROVE THE TOWING AMENDMENT AND THIS LICENSE IN ITS RESPECTIVE SOLE DISCRETION. APPROVAL OF THIS LICENSE BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ENACTED, NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

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IN WITNESS WHEREOF, the parties hereto have executed this License on the day first mentioned above.

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, acting by and through its
Municipal Transportation Agency

By: _____
Edward D. Reiskin
Director of Transportation

San Francisco Municipal Transportation Agency
Board of Directors
Resolution No: _____
Adopted: _____
Attest:

_____
Secretary, SFMTA Board of Directors

Approved as to Form:

Dennis J. Herrera, City Attorney

By: _____
Carol Wong, Deputy City Attorney

LICENSEE:

TEGSCO, LLC, a California limited liability company d.b.a. San Francisco AutoReturn

By: _____
John Wicker, President and CEO

INDUSTRIAL LEASE

between

PROLOGIS, L.P., A DELAWARE LIMITED PARTNERSHIP,
as Landlord

and

CITY AND COUNTY OF SAN FRANCISCO,
as Tenant

For the lease of
2650 Bayshore Boulevard, Daly City, California 94014

October 29, 2012

TABLE OF CONTENTS

LIST OF ADDENDA

LIST OF EXHIBITS

INDUSTRIAL LEASE

THIS INDUSTRIAL LEASE (this "Lease"), dated for reference purposes only as of _____, 2012, is by and between PROLOGIS, L.P., a Delaware limited partnership ("Landlord"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City" or "Tenant"), acting by and through the San Francisco Municipal Transportation Agency ("SFMTA").

Landlord and City hereby agree as follows:

1. BASIC LEASE INFORMATION

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

Lease Reference Date:	October 29, 2012
Landlord:	PROLOGIS, L.P., A DELAWARE LIMITED PARTNERSHIP
Tenant:	CITY AND COUNTY OF SAN FRANCISCO
Building (Section 2.1):	The building ("Building") located at 2650 Bayshore Boulevard, Daly City, California 94014
Premises (Section 2.1):	The Building and the real property which is more particularly described and shown on Exhibit A, together with any other improvements located thereon
Rentable Area of Building (Section 2.1):	Approximately 255,420 rentable square feet
Term (Section 3):	Lease Commencement Date: The date this Lease is executed by Landlord and Tenant. Expiration Date: The last day of the Two Hundred Fortieth (240th) full month following the Rent Commencement Date, subject to City's exercise of its early termination right pursuant to Section 3.2. Tenant shall have two (2) 5-year renewal options as set forth in Section 23.
Base Rent (Section 4.1):	As shown on Addendum 1, commencing on the Rent Commencement Date (as defined in Section 3.2)
Adjustment Dates (Section 4.2):	As shown on Addendum 1.
Additional Charges (Section 4.3):	"Industrial gross lease" under which City is responsible for services and utilities to the Premises, performs certain repairs, and

	reimburses Landlord for Excess Operating Expenses, as provided in Section 4.
Base Year (Section 4.3):	The twelve (12) month period commencing on the Rent Commencement Date
Permitted Uses (Section 5.1):	"Permitted Uses" shall mean the following: warehousing, storage (including automobiles, trucks, motorcycles, transit vehicles, and other types of vehicles), transportation shops and other transportation needs, training and general office use.
Delivery Condition (Section 6):	Landlord shall deliver the Premises in the following condition ("Delivery Condition"): vacant and free of any tenancies, free of the personal property of Landlord and any previous tenant, broom clean, with all carpeting in the office areas freshly shampooed, with the exterior painted, the landscaping maintained in good condition, the Building and Building Systems (as defined in Section 8.1) in good working order and condition
Phase I Landlord TIs (Addendum 2)	Landlord shall perform the Phase I Landlord TIs
Utilities and Services (Section 9):	Obtained by City at City's expense
Notice Address of Landlord (Section 23.1):	Prologis, L.P. 3353 Gateway Boulevard Fremont, CA 94538
with a copy to:	Prologis, L.P. 4545 Airport Way Denver, CO 80239 Attention: General Counsel
Key Contact for Landlord:	Bayshore Boulevard Property Manager
Landlord Contact Telephone No.:	(510) 656-1900
Notice Address for Tenant (Section 23.1):	San Francisco Municipal Transportation Agency 1 South Van Ness Avenue, 8th Floor San Francisco, CA 94103 Attn: Real Estate Section Re: 2650 Bayshore Blvd. Fax No.: (415) 701-4341
with a copy to:	Office of the City Attorney City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4682 Attn: Real Estate/Finance Team Re: 2650 Bayshore Blvd.

	Fax No.: (415) 554-4755
Key Contact for Tenant:	Senior Manager SFMTA Real Estate Section Finance and Information Technology Division 1 South Van Ness, 8th Floor San Francisco, CA 94103
Tenant Contact Telephone No.:	(415) 701-4323
Alternate Contact for Tenant:	Manager SFMTA Real Estate Section Finance and Information Technology Division 1 South Van Ness, 8th Floor San Francisco, CA 94103
Alternate Contact Telephone No.:	(415) 701-4794
Brokers (Section 23.8):	Landlord: Cassidy Turley Tenant: Colliers International
City Right of First Negotiation (Section 22.1):	City shall have the right of first negotiation to purchase the Premises on the terms and conditions set forth in Section 22.

2. PREMISES

2.1 Lease Premises

In consideration of the obligation of City to pay Rent as herein provided and in consideration of the other terms, covenants, and conditions hereof, Landlord leases to City and City leases from Landlord, subject to the provisions of this Lease, premises identified in the Basic Lease Information, which includes the Building, the real property described and shown on the attached Exhibit A, and all other improvements on or appurtenances thereon.

2.2 Delivery

On the Lease Commencement Date, Landlord shall deliver the Premises to City vacant and broom clean, free of any tenancies, free of the personal property of Landlord and any previous tenant, and with the Building and Building Systems in good working condition. Landlord shall use commercially reasonable efforts to cause the Phase I Landlord TIs to be Substantially Completed (as such term is defined in Addendum 2) within two (2) months from the date this Lease is fully executed, subject to Force Majeure and City Delay (as such term is defined in Addendum 2).

Landlord has made no representation or warranty as to the suitability of the Premises for the conduct of City's business, and City waives any implied warranty that the Premises are suitable for City's intended purposes. In no event shall Landlord have any obligation for any limitation on the use of the Premises, unless such limitation is caused by Landlord's action or failure to act. The taking of possession of the Premises shall be conclusive evidence that City accepts the Premises and that the Premises were in good condition at the time. Landlord hereby warrants that the Phase I Landlord TIs shall be in good working order for a period of one (1) year from the date the Phase I Landlord TIs are Substantially Completed; provided, however, that such warranty shall not be effective for any maintenance, repairs or replacements necessitated

due to the misuse of, or damages caused by, City, its employees, contractors, agents, subtenants, or invitees.

3. TERM

3.1 Term of Lease

The Premises are leased for a term (the "Term") commencing on the Lease Commencement Date, and ending on the Expiration Date specified in the Basic Lease Information, or such earlier date on which this Lease terminates pursuant to the provisions of this Lease. Notwithstanding the foregoing, in no event shall the Term commence prior to the Effective Date, as defined in Section 23.30 below.

3.2 Lease Commencement Date; Rent Commencement Date and Expiration Date; Pre-Term Entry; Early Termination

The dates on which the Term commences and terminates pursuant hereto are referred to respectively as the "Lease Commencement Date" and the "Expiration Date". The date on which the Phase I Landlord TIs are Substantially Completed (as such term as defined in Addendum 2) shall be referred to as the "Rent Commencement Date". Promptly after the Rent Commencement Date, Landlord and Tenant shall execute a Rent Commencement Date Certificate substantially in the form of Exhibit B attached hereto, confirming the Lease Commencement Date, the Rent Commencement Date, and the Expiration Date, but either party's failure to do so shall not affect the commencement of the Term.

Landlord and City acknowledge that the parties anticipate that Landlord and City will enter into a license or other right of entry agreement (the "Entry Agreement") under which City will have the right to enter onto the Premises prior to the commencement of the Term hereof to perform certain environmental testing at the Premises. City's entry onto and use of the Premises prior to the Lease Commencement Date pursuant to the terms of the Entry Agreement shall be governed by the terms of the Entry Agreement and shall not affect the commencement of the Term of this Lease.

City shall have the right to terminate this Lease on the tenth (10^{th}) anniversary of the Rent Commencement Date by delivering written notice of such termination to Landlord on or before the ninth (9^{th}) anniversary of the Rent Commencement Date and paying the Reimbursable Costs to Landlord on or before such early termination date of the Lease. The "Reimbursable Costs" shall mean a termination fee equal to the sum of $276,696.07 and the total remaining unpaid unamortized amount of the Allowance and the Phase II Allowance (as such terms are defined in Addendum 2), amortized on a straight line basis with seven percent (7%) interest over a twenty (20) year period.

3.3 Delay in Delivery of Possession

Landlord shall use its best efforts to deliver possession of the Premises in the condition required by this Lease on or before the Lease Commencement Date. However, if Landlord is unable to deliver possession of the Premises as provided above, then, subject to the provisions of this Section below, the validity of this Lease shall not be affected by such inability to deliver possession.

4. RENT

4.1 Base Rent

Prior to the Lease Commencement Date, Landlord shall deliver the materials and information required by City's Office of the Controller to establish Vendor Identification Number and set up electronic payments of Base Rent through Paymode-X, a Bank of America

Merrill Lynch business-to-business electronic system. Beginning on the Rent Commencement Date, City shall pay to Landlord during the Term the annual Base Rent specified in the Basic Lease Information and Addendum 1 (the "Base Rent"). The Base Rent shall be payable in equal consecutive monthly payments on or before the first day of each month, in advance, to the bank account designated by Landlord pursuant to this Section. City shall pay the Base Rent without any prior demand and without any deductions or setoff except as otherwise provided in this Lease. If the Rent Commencement Date occurs on a day other than the first day of a calendar month or the Expiration Date occurs on a day other than the last day of a calendar month, then the monthly payment of the Base Rent for such fractional month shall be prorated based on a thirty (30)-day month. If City is delinquent in any monthly installment of Base Rent or of estimated Excess Operating Expenses (as hereinafter defined) for more than 5 days, City shall pay to Landlord on demand a late charge equal to five percent (5%) of such delinquent sum; provided, however, that Tenant shall not be obligated to pay the late charge unless and until Landlord has given Tenant 5 days written notice of the delinquent payment (which may be given at any time during the delinquency); and provided further, however, that such notice shall not be required more than twice in any 12-month period. The provision for such late charge shall be in addition to all of Landlord's other rights and remedies hereunder or at law and shall not be construed as a penalty or as limiting Landlord's remedies in any manner.

4.2 Adjustments in Base Rent

The Base Rent payable under Section 4.1 shall be adjusted periodically as set forth in Addendum 1.

4.3 Industrial Gross Lease; Additional Charges

This Lease is a so-called "industrial gross lease" under which City shall be responsible for services and utilities to the Premises and shall reimburse Landlord for the Excess Operating Expenses, as provided below. All charges or other amounts required to be paid or reimbursed by City under this Lease ("Additional Charges"), shall be additional rent hereunder and, to the extent payable to Landlord, shall be payable to Landlord either at the place where the Base Rent is payable or at the address specified for Landlord in the Basic Lease Information or such other place as Landlord may designate in writing upon not less than thirty (30) days' advance notice. Landlord shall have the same remedies for a default in the payment of any Additional Charges as for a default in the payment of Base Rent. The Base Rent and Additional Charges are sometimes collectively referred to below as "Rent."

4.4 Definitions

For purposes hereof, the following terms shall have the meanings hereinafter set forth:

(a) "Base Year" means the fiscal year specified in the Basic Lease Information.

(b) "Expense Year" means each fiscal year commencing July 1st of each year during the Term, and any partial fiscal year in which this Lease commences.

(c) "Excess Operating Expenses" means Operating Expenses for the applicable Expense Year in excess of Operating Expenses for the Base Year. "Operating Expenses" means all commercially reasonable and prudent costs and expenses incurred by Landlord with respect to the ownership, maintenance, and operation of the Premises including, but not limited to, costs of: Real Estate Taxes (hereinafter defined) and fees payable to tax consultants and attorneys for consultation and contesting taxes; insurance and all applicable deductibles for the insurance policies Landlord is required or permitted to maintain under this Lease; utilities; maintenance, repair and replacement of all portions of the Premises to be maintained, repaired or replaced by Landlord under Section 8.1 and Section 8.3, including without limitation, paving and parking areas, roads, structural and non-structural components of

the roofs (including the roof membrane), alleys, and driveways, mowing, landscaping, exterior painting, utility lines, lighting, electrical systems and other mechanical and building systems; amounts paid to contractors and subcontractors for work or services performed in connection with any of the foregoing; charges or assessments of any association to which the Premises is subject; property management fees payable to a property manager, including any affiliate of Landlord, or if there is no property manager, an administration fee of 15 percent of the total amount of Operating Expenses for the applicable Expense Year (provided, however, that the property management fees cannot increase over the property management fees for the Base Year); trash collection, sweeping and removal; additions or alterations made by Landlord to the Premises or the Building in order to comply with Laws (as defined in Section 10.1), other than those expressly required herein to be made by City; and the applicable monthly amortization of any capital improvement made by Landlord pursuant to Section 8.3 (such capital improvements being referred to as "Amortized Capital Improvements"), which shall be amortized over the lesser of (i) useful life based on generally accepted accounting principles ("GAAP") and (ii) 10 years, plus 10% interest per annum. Notwithstanding the foregoing, in lieu of including the amortized cost of any such capital improvement in the Operating Expenses, Tenant shall have the right at any time to pay Landlord for the cost of any such capital improvement prior to Landlord making such expenditure, or after Landlord has made any such capital improvement expenditure, Tenant may pay the then entire unamortized cost of the Amortized Capital Improvements. Operating Expenses do not include costs, expenses, depreciation or amortization for capital repairs expressly required to be made by Landlord and expressly identified as Landlord's sole cost under Section 8.1 of this Lease, debt service under mortgages or ground rent under ground leases, costs of restoration to the extent of net insurance proceeds received by Landlord with respect thereto, leasing commissions, or the costs of renovating space for tenants.

(d) "Insurance Costs" means all insurance costs, including, but not limited to, the cost of property and liability coverage and rental income and earthquake insurance applicable to the Premises which Landlord is obligated to provide pursuant to the terms of this Lease.

(e) "Real Estate Taxes" means all taxes, assessments and charges levied upon or with respect to the portion of the Premises owned by Landlord, or Landlord's interest in the Premises, or Tenant's possessory leasehold interest in the Premises (to the extent, if any, that Landlord is required to pay such possessory leasehold interest tax). Real Estate Taxes shall include, without limitation, all general real property taxes and general and special assessments, charges, fees, or assessments for transit, housing, police, fire, or other governmental services thereof, service payments in lieu of taxes that are now or hereafter levied or assessed against Landlord by the United States of America, the State of California or any political subdivision thereof, public corporation, district, or any other political or public entity, and shall also include any other tax, fee or other excise, however described, that may be levied or assessed as a substitute for, or as an addition to, in whole or in part, any other Real Estate Taxes. Notwithstanding the foregoing, Real Estate Taxes shall exclude (1) franchise, transfer, inheritance, or capital stock taxes or income taxes measured by the net income of Landlord from all sources unless, due to a change in the method of taxation, any of such taxes is levied or assessed against Landlord as a substitute for, or as an addition to, in whole or in part, any other tax that would otherwise constitute a Real Estate Tax, (2) any penalties, fines, interest or charges attributable to the late payment of any taxes, except to the extent attributable to City's failure to pay its portion of Real Estate Taxes hereunder, or (3) any personal property taxes payable by City hereunder or by any other tenant or occupant of the Building.

4.5 Payment of Excess Operating Expenses

During the Term, City shall pay to Landlord each month, as Additional Charges, one twelfth (1/12) of the Excess Operating Expenses. City shall make such payments, in advance, in an amount estimated by Landlord as provided in this Section. On or before May 1 of each calendar year during the Term of this Lease, Landlord shall provide City with written notice of Landlord's good faith estimate of the Excess Operating Expenses for the following Expense Year, which estimate shall be explained in reasonable detail. Landlord may revise such

estimates of Excess Operating Expenses from time to time, but shall use good faith efforts to provide such estimates as early as possible. Commencing on the later of July 1 of each Expense Year or the date which is sixty (60) days after City's receipt of Landlord's estimate (or revised estimate) of Excess Operating Expenses, City shall make payments to Landlord on the basis of such estimates. With reasonable promptness, and in all events within sixty (60) days after Landlord has received the invoice(s) for all Excess Operating Expenses for any Expense Year, Landlord shall furnish City with an Excess Operating Expense reconciliation invoice ("Invoice") and an Excess Operating Expense summary report listing the Excess Operating Expenses for the prior Expense Year ("Report"). If the amount of such actual Excess Operating Expenses for such Expense Year exceeds the estimated Excess Operating Expenses paid by City for such Expense Year, City shall pay to Landlord (whether or not this Lease has terminated) the shortfall within thirty (30) days after the receipt of Landlord's Invoice and Report. If the total amount of estimated Excess Operating Expenses paid by City for such Expense Year exceeds the actual Excess Operating Expenses for such Expense Year, such excess shall be credited against the next installments of Rent due from City hereunder, or at City's option, such excess shall be refunded to City if there is no existing monetary Event of Default.

4.6 Reserved

4.7 Proration

If the Rent Commencement Date or Expiration Date shall occur on a date other than the first or last day of an Expense Year, City's share of Excess Operating Expenses in which the Rent Commencement Date or Expiration Date occurs shall be prorated based on a three hundred sixty-five (365)-day year.

4.8 Audits

No later than 60 days following the first day of each Expense Year during the Term, Landlord shall deliver to City an Invoice and Report for the prior Expense Year. Provided no Event of Default exists under this Lease, City shall have the right, upon not less than five (5) business days' notice to Landlord, to audit the books and records of the Building related to Excess Operating Expenses. Such review of Landlord's property invoices may occur not more than once per year at Landlord's local market office during reasonable business hours. Landlord shall make the property invoices pertaining to those items which City reasonably believes to be in error, a copier and conference room available to City for a period not to exceed one week to examine such property invoices. In the event City desires to exercise the foregoing right, City shall deliver written notice of City's intent to review the property invoices, and shall identify the item(s) contained in the Invoice and Report which City believes to be in error, no later than ninety (90) days following City's receipt of the Invoice and Report. Time is of the essence with regards to the delivery of such notice. If such audit discloses any discrepancies which would result in a reduction of City's share of Excess Operating Expenses, Landlord shall immediately refund to City the amount of any overpayment by City. City shall keep any information gained from such examination confidential and shall not disclose it to any other party, except as required by law or for disclosures to any third party contractor performing such audit for City. Notwithstanding anything contained herein to the contrary, in no event shall City retain any person paid on a contingency fee basis to act on behalf of City with regards to the forgoing rights to review the property invoices and Landlord shall have no obligation to allow any such representative paid on a contingency fee basis access to Landlord's records. Notwithstanding anything contained in this Lease to the contrary, City hereby agrees that City's sole remedy pertaining to an error in the Invoice or Report shall be for the recovery from Landlord an amount equal to the amount overpaid by City and payment of any interest expressly provided below in the last sentence of this paragraph, and City hereby waives any right to terminate this Lease as a result of any such error in the Invoice or Report which City may have under law or equity. City shall pay the cost of such audit, provided that if such audit discloses any discrepancies which result in a reduction of City's share of Excess Operating Expenses of five percent (5%) or more for any Expense Year, then Landlord shall pay up to $5,000.00 of City's actual costs of such

audit. Additionally, if such audit discloses any discrepancies which result in a reduction of City's share of Excess Operating Expenses by more than ten percent (10%) for any Expense Year that concluded within two (2) years of the date of the audit, then Landlord shall also pay City ten percent (10%) annual interest on the amount of such overpayment made within two (2) years of the audit date, commencing on the date such overpayment was made and terminating on the date such overpayment is refunded to City.

4.9 Records

Landlord shall maintain at Landlord's regional office closest to the Building, complete and organized manner all of its records pertaining to this Lease and Excess Operating Expenses and any other charges paid by City pursuant hereto, for a period of not less than three (3) years following expiration of each Expense Year during the Term. Landlord shall maintain such records on a current basis and in sufficient detail to facilitate adequate audit and review thereof. All such books and records shall be available for inspection, copying and audit by City and its representatives, at City's expense, subject to the provisions of Section 4.8. At City's written request, Landlord shall provide copies of such records to City at the Premises or at the address for notices to City specified in Section 1.

5. USE

5.1 Permitted Use

City may use the Premises for the Permitted Uses. City shall not use the Premises for any other use without the prior written consent of Landlord, which shall not be unreasonably withheld or delayed. City will use the Premises in a careful, safe and proper manner and will not commit waste, overload the floor or structure of the Premises. City shall not permit any objectionable or unpleasant odors, smoke, dust, gas, noise, or vibrations to emanate from the Premises, or take any other action that would constitute a nuisance or would endanger Landlord. City, at its sole expense, shall use and occupy the Premises in compliance with all Laws, including, without limitation, the Americans With Disabilities Act. City shall, at its expense, make any alterations or modifications, within or without the Premises, that are required by Laws related to City's use or occupation of the Premises. Any occupation of the Premises by City prior to the Lease Commencement Date shall be subject to all obligations of City under this Lease.

5.2 Interference with Access or Use

Landlord shall not restrict access to the Premises; provided, however, that Landlord may, after consultation with the Senior Manager of SFMTA's Real Estate Section, interrupt City's access to the Premises in the event of an immediate threat of the Premises or any portion of the Building being rendered unsafe for human occupancy. If City's use of any of the Premises or access thereto is 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 an Event of Default hereunder, then Landlord shall immediately undertake all necessary steps to correct such condition. In the event such condition continues, Tenant's remedies are set forth in Section 15.3 below with respect to Landlord defaults and in Section 9 below with respect to utility interruptions caused by Landlord. Nothing in this Section shall limit City's rights with respect to any disruption due to casualty pursuant to Section 12 (Damage and Destruction) hereof.

6. PREPARATION OF PREMISES

Prior to delivery of the Premises to City, Landlord shall satisfy the Delivery Condition.

7. ALTERATIONS

7.1 Alterations by City

City shall not make or permit any alterations, installations, additions or improvements (collectively, "Alterations") to the Premises without first obtaining Landlord's written consent, which Landlord shall not unreasonably withhold, condition or delay. If City further requests Landlord's approval to City leaving a proposed Alteration at the Premises after the expiration of the Term, or to removing a proposed Alteration from the Premises prior the expiration of the Term at the time City requests Landlord's approval to a proposed Alteration, any written consent given by Landlord for the proposed Alteration shall specify if the proposed Alteration must be removed from the Premises by City on or before the termination of the Term or shall remain at the Premises on the termination of the Term. The installation of furnishings, fixtures, equipment or decorative improvements, none of which affect the Building Systems (as defined in Section 8.2) or structural integrity of the Building, and the repainting of the interior of the Premises and recarpeting of the Premises shall not constitute Alterations requiring Landlord's consent. Any Alterations permitted hereunder shall be made at City's cost in compliance with applicable Laws. Landlord shall, without cost to itself, cooperate with City in securing building and other permits and authorizations needed in connection with any permitted Alterations. Landlord shall not be entitled to any construction or other administrative fee in connection with any Alteration. All Alterations shall be constructed in a good and workmanlike manner by contractors reasonably acceptable to Landlord and only good grades of materials shall be used. All plans and specifications for any Alterations shall be submitted to Landlord for its approval. If Landlord reasonably determines it will need an outside consultant to review the plans and specification submitted by City for a proposed Alterations, Landlord shall deliver written notice (a "Consultant Review Notice") of such determination and the anticipated costs of such consultant review to City. Landlord shall not engage any consultant to review plans and specifications for any proposed Alterations without first obtaining City's written confirmation that Landlord shall proceed with such review. If City does not provide such written confirmation within ten (10) business days of City's receipt of a Consultant Review Notice, City shall have been deemed to withdrawn its request to have Landlord review the submitted plans and specifications that require such consultant review. Landlord may inspect and observe construction of the Alterations.

City shall reimburse Landlord for its costs in reviewing plans and specifications and in monitoring construction, provided such costs shall not exceed the actual, out-of-pocket costs paid by Landlord to third parties plus a construction management fee of (i) five percent (5%) of the actual Structural Cost (defined as follows) of such Alterations up to $200,000, (ii) four percent (4%) of the actual Structural Cost of such Alterations between $200,000 and $300,000, (iii) three percent (3%) of the actual Structural Cost of such Alterations between $300,000 and $400,000, and (iv) two percent (2%) of the actual Structural Cost of such Alterations over $400,000. The "Structural Cost" shall be an amount equal to the costs to physically alter the Premises to make an Alteration and the cost of the Alteration, but shall not include the cost of any personal property or equipment installed as part of such Alteration. Landlord's right to review plans and specifications and to monitor construction shall be solely for its own benefit, and Landlord shall have no duty to see that such plans and specifications or construction comply with all Laws. City shall provide Landlord with the identities and mailing addresses of all third party contractors performing work at, or supplying materials to, the Premises, prior to beginning such construction, and Landlord may post on and about the Premises notices of non-responsibility pursuant to applicable law. Upon completion of any Alterations, City shall deliver to Landlord sworn statements setting forth the names of all contractors and subcontractors who did work on the Alterations and final lien waivers from all such contractors and subcontractors.

Notwithstanding anything to the contrary herein, City shall have the right to perform the following Alterations at its sole cost, subject to Landlord's approval of the plans therefor, which shall not be unreasonably withheld, delayed or conditioned: (i) installing a pay phone for customers, (ii) installing electrical system architecture for a backup generator, (iii) installing an indoor 3-4 vehicle stack, and (iv) installing voice data and security insulation and equipment.

7.2 Title to Improvements

Except for City's Personal Property (as defined in the next Section) and any Alterations that City must remove pursuant to Section 7.1, all appurtenances, fixtures, improvements, equipment, additions and other property permanently installed in the Premises as of the Lease Commencement Date shall be and remain Landlord's property, and all appurtenances, fixtures, improvements, equipment, additions and other property permanently installed in the Premises during the Term shall be City's property until the end of the Term. City may not remove such property unless Landlord consents thereto. Upon surrender of the Premises, all Alterations and any leasehold improvements constructed by Landlord or City shall remain on the Premises as Landlord's property, except to the extent Landlord requires removal at City's expense of any such Alteration at the end of the Term pursuant to Section 7.1 or as otherwise agreed to in writing by Landlord and City. City shall repair any damage caused by the removal of such Alterations upon surrender of the Premises.

7.3 City's Personal Property

All furniture, furnishings, equipment, trade fixtures and articles of movable personal property installed in the Premises by or for the account of City and that can be removed without structural damage to the Premises (collectively, "City's Personal Property") shall be and remain City's property. At any time during the Term or at the expiration thereof, City may remove any of City's Personal Property, provided City shall repair any damage to the Premises resulting therefrom. Upon the expiration or earlier termination of this Lease, City shall remove City's Personal Property from the Premises in accordance with Section 20 (Surrender of Premises), below. Landlord acknowledges that some of City's Personal Property may be financed by an equipment lease financing otherwise subjected to a security interest, or owned by an equipment company and leased to City. Landlord, upon City's reasonable request and provided there is no monetary Event of Default, shall execute and deliver the form of landlord consent and waiver agreement attached hereto as Exhibit E with any supplier, lessor, or lender in connection with the installation or provision of any items of City's Personal Property in the Premises.

7.4 Alteration by Landlord

Landlord shall use commercially reasonable efforts to minimize interference with or disruption to City's use and occupancy of the Premises during any alterations, installations, additions or improvements to the Building. Landlord shall promptly remedy any such interference or disruption upon receiving City's notice thereof.

8. REPAIRS AND MAINTENANCE

8.1 Landlord's Repairs

"Building Systems" shall mean the heating, ventilating, air conditioning, plumbing, electrical, fire protection, life safety, security and other mechanical, electrical and communications systems located at the Premises. Landlord, subject to inclusion as an Operating Expense as set forth in Section 4.4 above, shall repair, maintain and replace, in good condition, any portion of the Building Systems located outside of the Building (such as any HVAC components located on the Building roof) and Building roof. Landlord shall further repair and maintain, in good condition, the exterior and structural portions of the Building (excluding the roof), including, without limitation, the foundation, bearing and exterior walls, subflooring, plumbing, glass windows, exterior building doors, fences, and the parking lot, and remove graffiti at the Premises. Landlord's costs to perform the maintenance and repair obligations described in the foregoing sentence shall be an Operating Expense.

8.2 City's Repairs

Subject to Landlord's obligation to deliver the Premises and the Building Systems in good working order and Landlord's repair, maintenance and replacement obligations in Sections 4.4 and 8.1 above, City shall (a) repair, maintain and replace at its cost any portion of the

Building Systems located within the Building, and (b) repair and maintain the interior portions of the Building and shall keep the Premises in good working order and in a safe and sanitary condition, except for ordinary wear and tear and damage by casualty. City shall perform any such required repairs, maintenance and replacements that are City's responsibility hereunder **(i)** at City's cost, **(ii)** by contractors or mechanics selected by City and reasonably approved by Landlord, **(iii)** so that same shall be at least substantially equal in quality, value and utility to the original work or installation prior to damage thereof, **(iv)** in a manner and using equipment and materials that will not materially interfere with or impair the operations, use or occupation of the Building or the Building Systems, and **(v)** in compliance with all applicable Laws, including, without limitation, any applicable contracting requirements under City's Charter and Administrative Code. Notwithstanding the foregoing to the contrary, City shall have no obligation to make or pay for any structural improvement or modification to the Premises unless triggered by City's Alterations or City's specific use of the Premises or changes to the Laws that take effect after the Lease Commencement Date. Landlord shall assign to City any construction warranty or other warranties or guaranties held by Landlord with respect to the Premises or any part or component thereof, other than warranties with respect to building components which Landlord is obligated to repair and maintain pursuant to the provisions of Section 8.1 above. If City fails to perform any repair or replacement for which it is responsible, Landlord may perform such work and be reimbursed by City for its reasonable costs incurred for such work within 30 days after demand therefor, provided that Landlord provided not less than ten (10) days prior written notice to City of Landlord's intent to perform such work at City's costs.

Notwithstanding anything contained herein to the contrary, Landlord warrants that the Building Systems (including any repairs or replacements to the Building Systems) shall be in a good operating condition for the ninety (90) day period immediately following the Lease Commencement Date (the "Building Systems Warranty Period"); provided, however, that such warranty shall not be effective for any repairs or replacements necessitated due to the misuse of, lack of maintenance by, or damages caused by, City, its Agents, or Invitees. Additionally, Landlord shall utilize for the benefit of Tenant any warranties provided by the contractors for the work on the Building Systems.

8.3 Landlord's Replacement of Building Systems; Reimbursement by City

Without relieving City of liability resulting from City's failure to exercise and perform good maintenance practices, if an item described in clause (a) of the first sentence of Section 8.2 cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item and the Building Systems Warranty Period has not expired, then such item shall be replaced by Landlord at Landlord's sole cost, and if the replacement costs for such item are estimated to exceed $25,000.00, then Landlord shall also provide Tenant with written notice prior to making such replacement. Such notification to City shall not give City any right to delay Landlord's work to make any such replacement. If such item is replaced after the expiration of the Building Systems Warranty Period, the cost of such replacement shall be considered a capital improvement Operating Expense and shall be amortized in accordance with the terms of Section 4.4 (c) (Standards for Landlord's Performance; City's Remedies).

In performing its obligations hereunder, Landlord shall undertake commercially reasonable measures in accordance with good construction practices to minimize damage, disruption or inconvenience caused by such work and make adequate provision for the safety and convenience of all persons affected by such work. Dust, noise, fumes, odors and other effects of such work shall be controlled using commercially reasonable methods customarily used to control deleterious effects associated with similar projects in occupied buildings (i.e., after-hours core drilling). On written or telephonic notice from City that any repair or replacement is required which is Landlord's obligation hereunder, or otherwise becoming aware of the necessity of such repair, Landlord shall proceed with reasonable diligence to perform such repair or replacement as promptly as possible and shall keep City apprised of its efforts. Without limiting the foregoing, Landlord shall in all events provide City with a written acknowledgement to a written repair or replacement request within five (5) business days of receipt thereof.

8.4 Liens

City shall keep the Premises free from liens arising out of any work performed, material furnished or obligations incurred by City during the Term. Landlord shall have the right to post on the Premises any notices permitted or required by law or that are needed for the protection of Landlord, the Premises, or the Building, from mechanics' and material suppliers' liens. City shall give Landlord at least ten (10) days' prior written notice of commencement of any repair or construction by City on the Premises. City has no express or implied authority to create or place any lien or encumbrance of any kind upon, or in any manner to bind the interest of Landlord or City in, the Premises or to charge the Rent payable hereunder for any claim in favor of any person dealing with City, including those who may furnish materials or perform labor for any construction or repairs. City covenants and agrees that it will pay or cause to be paid all sums legally due and payable by it on account of any labor performed or materials furnished in connection with any work performed on the Premises and that it will save and hold Landlord harmless from all loss, cost or expense based on or arising out of such asserted claims or liens against the leasehold estate or against the interest of Landlord in the Premises or under this Lease. City shall give Landlord immediate written notice of the placing of any lien or encumbrance against the Premises and cause such lien or encumbrance to be discharged within twenty (20) days of the filing or recording thereof; provided, however, City may contest such liens or encumbrances as long as such contest prevents foreclosure of the lien or encumbrance and City causes such lien or encumbrance to be bonded or insured over in a manner satisfactory to Landlord within such twenty (20) day period.

9. UTILITIES AND SERVICES

City shall be responsible for all utilities and services to the Premises. Landlord shall not be liable for any failure or interruption of any utility service furnished to the Premises, and no such failure or interruption shall entitle City to any abatement in Rent or to terminate this Lease, unless such interruption is due to the negligence or willful misconduct of Landlord, and except in connection with Landlord's replacement obligations under Section 8.3 above. Landlord shall use reasonable diligence to make such replacements to Building Systems within the Premises as may be required to restore utility services. Notwithstanding the foregoing, if any interruption in services or utilities is (i) within Landlord's reasonable control and continues for three (3) or more consecutive business days, or (ii) outside Landlord's reasonable control and continues for sixty (60) or more consecutive days, and City is unable to and does not use a material portion of the Premises for City's business purposes as a result thereof, then City shall be entitled to an abatement of rent hereunder, which abatement shall be based on the extent of City's inability to use the Premises.

10. COMPLIANCE WITH LAWS; PREMISES CONDITION

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

Landlord has provided City with the following roof and building systems inspection report: Report of Property Condition Assessment issued by CODA Consulting Group dated May 2011.

As used in this Lease, the Americans With Disabilities Act of 1990 and Title 24 of the California Code of Regulations and all other applicable federal, state, local and administrative laws, rules, regulations, orders and requirements intended to provide equal accessibility for persons with disabilities are referred to collectively as "Disabilities Laws", all applicable federal, state, local and administrative laws, rules, regulations, orders and requirements relating to seismic safety are referred to collectively as "Seismic Safety Laws", and all applicable federal, state, local and administrative laws, rules, regulations, orders and requirements relating to fire and life safety (including, if applicable, the San Francisco High-Rise Sprinkler Ordinance) are referred to collectively as "Life Safety Laws."

Without limiting the provisions of Section 8 above, in the event that Landlord receives notice that the Premises is not in compliance with applicable present or future federal, state, local and administrative laws, rules, regulations, orders and requirements (collectively, "Laws"), including, without limitation, Disabilities Laws, Seismic Safety Laws, and Life Safety Laws. existing as of the Lease Commencement Date and such non-compliance is not related to City's specific use of the Premises or Alterations to the Premises performed by City, Landlord shall make such modifications as may be required by order or directive of applicable governmental authority in order to bring the Premises into compliance with applicable Laws as of the Lease Commencement Date without cost or expense to City and without including such cost or expense as an Operating Expense. Furthermore, in the event Landlord receives notice that the Premises is not in compliance with any applicable Law which come into effect after the Lease Commencement Date and such non-compliance is not related to City's specific use of the Premises or Alterations to the Premises performed by City, Landlord shall make such modifications as may be required by order or directive of applicable governmental authority in order to bring the Premises into compliance with applicable Laws which shall be chargeable as an Operating Expense.

10.2 City's Compliance with Laws; Indemnity

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

10.3 City's Compliance with Insurance Requirements

City shall not conduct any use in or about the Premises that would: **(a)** invalidate or be in conflict with any fire or other casualty insurance policies covering the Building or any property located therein, **(b)** result in a refusal by fire insurance companies of good standing to insure the Building or any such property in amounts reasonably satisfactory to Landlord or the holder of any mortgage or deed of trust encumbering the Building, **(c)** cause an increase in the fire insurance premium for the Building unless City agrees to pay such increase, or **(d)** subject Landlord to any liability or responsibility for injury to any person or property by reason solely of any business operation being conducted by City in the Premises; provided, however, Landlord shall provide City with reasonable prior written notice of any applicable insurance requirements and no such insurance requirements shall materially and adversely interfere with City's normal business in the Premises.

11. SUBORDINATION

(a) Without the necessity of any additional document being executed by City for the purpose of effecting a subordination, and subject in all events to subsection (b) below, this Lease shall be subject and subordinate at all times to the following (each an "Encumbrance"): **(a)** any reciprocal easement agreements, ground leases or other underlying leases that may hereafter be executed affecting Landlord's interest in the Premises, or any portion thereof, and **(b)** the lien of any mortgages or deeds of trust and renewals, modifications, consolidations, replacements and extensions of any of the foregoing that may hereafter be executed by Landlord in any amount for which any part of the Premises, any ground lease or underlying lease, or Landlord's interest or estate therein is subject. Notwithstanding the foregoing, if the ground lessor, mortgagee, trustee,

or holder of any such mortgage or deed of trust elects to have City's interest in this Lease be superior to any such instrument, then upon notice thereof to City, this Lease shall be deemed superior, whether this Lease was executed before or after the date of said instrument or the recording thereof. At City's request, the holder of the Encumbrance shall enter into a subordination and nondisturbance agreement with City in a form reasonably acceptable to City evidencing such subordination or superiority of this Lease. Landlord warrants that as of the date of this Lease there is no existing mortgage or deed of trust encumbering the Premises.

(b) In the event any mortgage or deed of trust to which this Lease is subordinate is foreclosed or a deed in lieu of foreclosure is given to the mortgagee or beneficiary, or in the event any ground lease or underlying lease to which this Lease is subordinate is terminated, this Lease shall not be barred, terminated, cut off, or foreclosed nor shall the rights and possession of City hereunder be disturbed if City shall not then be in default in the payment of rental or other sums due hereunder or otherwise be in default under the terms of this Lease beyond any applicable notice and cure period. City shall attorn to and become the tenant of the successor-in-interest to Landlord, provided that City has received proper written notice of such succession and the name and address of the successor landlord. City's covenant under subsection (a) above to subordinate this Lease to any Encumbrance or other hypothecation hereafter executed is conditioned upon each such senior instrument containing the commitments specified in this subsection (b). The provisions of this Section shall be self-operative and no further instrument shall be required other than as provided in this Section. City agrees, however, to execute upon request by Landlord and in a form reasonably acceptable to City, any additional documents evidencing the priority or subordination of this Lease with respect to any such Encumbrance as provided herein.

12. DAMAGE AND DESTRUCTION

If the Premises, the Building or any Building Systems are damaged by casualty (including, but not limited to, fire), Landlord shall notify City within sixty (60) days after such damage as to the amount of time Landlord reasonably estimates it will take to restore such damage. If the restoration time is estimated to exceed six (6) months, either Landlord or City may elect to terminate this Lease upon notice to the other party given no later than thirty (30) days after delivery of Landlord's notice. If neither party elects to timely terminate this Lease or if Landlord estimates that restoration will take six (6) months or less, then Landlord shall promptly restore the Premises excluding the improvements installed by City, but including the Phase I Landlord TIs, subject to delays arising from Force Majeure (as defined in Section 33) or any delays caused by the actions of City or any of its Agents. Following Landlord's completion of such repairs, Tenant shall promptly re-enter the Premises and commence doing business in accordance with this Lease. Notwithstanding the foregoing, either party may terminate this Lease if the Premises are damaged during the last year of the Term and Landlord reasonably estimates that it will take more than one (1) month to repair such damage.

If neither party exercises its right to terminate the Lease pursuant to this Section, the Lease shall remain in full force and effect, except that if such damage interferes with City's normal operation of business at the Premises, City shall be entitled to proportionate abatement of Rent while such repairs are being made. Any proportionate abatement in Rent pursuant to this Section shall be made by multiplying the Rent payable for the month immediately preceding such casualty by a fraction that has the damaged square footage of the area of the Premises as the numerator and the square footage of the total area of the Premises as the denominator. Landlord's repairs shall not include, and the Rent shall not be abated as a result of, any damage by fire or other cause to City's property or any damage caused by the negligence or willful misconduct of City or its Agents. Such abatement shall be the sole remedy of City, and except as provided herein, City waives any right to terminate the Lease by reason of damage or casualty loss. The parties intend that the provisions of this Section govern fully their rights and obligations in the event of damage or destruction, and Landlord and City each hereby waives and releases any right to terminate this Lease in whole or in part under Section 1932, subdivision 2, Section 1933, subdivision 4, and Sections 1941 and 1942 of the Civil Code of California or

under any similar law, statute or ordinance now or hereafter in effect, to the extent such rights are inconsistent with the provisions hereof.

13. EMINENT DOMAIN

13.1 Definitions

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

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

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

13.2 General

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

13.3 Total Taking; Automatic Termination

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

13.4 Partial Taking; Election to Terminate

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

(b) In the case of a partial taking of over forty percent (40%) of the Building, and if subsection (a) above does not apply, City and Landlord shall each have the right to terminate this Lease by written notice to the other within thirty (30) days after the Date of Taking, provided that, as a condition to City's right to terminate, the portion of the Building taken shall, in City's reasonable judgment, render the Premises unsuitable for continued use by City for its intended purposes or otherwise materially adversely affect City's normal operations in the Premises.

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

13.5 Rent; Award

Upon termination of this Lease pursuant to an election under Section 13.4 above, then: **(a)** City's obligation to pay Rent shall continue up until the date of termination, and thereafter shall cease, except that Rent shall be reduced as provided in Section 13.6 below for any period during which this Lease continues in effect after the Date of Taking, and **(b)** Landlord shall be entitled to the entire Award in connection therewith, except that City shall receive any Award made specifically for City's relocation expenses or the interruption of or damage to City's business or damage to City's Personal Property.

13.6 Partial Taking; Continuation of Lease

If there is a partial Taking of the Premises under circumstances where this Lease is not terminated in its entirety under Section 13.4 above, then this Lease shall terminate as to the portion of the Premises so taken, but shall remain in full force and effect as to the portion not taken, and the rights and obligations of the parties shall be as follows: **(a)** Rent shall be reduced by an amount that is in the same ratio to the Rent as the area of the Premises taken bears to the area of the Premises prior to the Date of Taking, and **(b)** Landlord shall be entitled to the entire Award in connection therewith, provided that City shall receive any Award made specifically for City's relocation expenses or the interruption of or damage to City's business or damage to City's Personal Property.

13.7 Temporary Taking

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

14. ASSIGNMENT AND SUBLETTING

Except as provided in this Section below, City shall not directly or indirectly sell, assign, encumber, pledge or otherwise transfer or hypothecate all or any part of its interest in or rights with respect to the Premises or its leasehold estate hereunder or permit all or any portion of the Premises to be occupied by anyone other than itself or sublet all or any portion of the Premises, without Landlord's prior written consent in each instance, which shall not be unreasonably withheld or delayed (subject to Landlord's rights under Section 22.1(e)). It shall be reasonable for the Landlord to withhold, delay or condition its consent, where required, to any assignment or sublease in any of the following instances: (i) the assignee or sublessee does not have a net worth calculated according to generally accepted accounting principles at least equal to $20,000,000; (ii) occupancy of the Premises by the assignee or sublessee would, in Landlord's opinion, violate any agreement binding upon Landlord or the Premises with regard to the identity of tenants, usage in the Premises, or similar matters; (iii) the identity or business reputation of the assignee or sublessee will, in the good faith judgment of Landlord, damage the goodwill or reputation of the Premises; or (iv) in the case of a sublease, the subtenant has not acknowledged that the Lease controls over any inconsistent provision in the sublease. The foregoing criteria shall not exclude any other reasonable basis for Landlord to refuse its consent to such assignment or sublease. Any approved assignment or sublease shall be expressly subject to the terms and conditions of this Lease. City shall provide to Landlord all information concerning the assignee or sublessee as Landlord may reasonably request. Landlord may revoke its consent immediately and without notice if, as of the effective date of the assignment or sublease, there has occurred and is continuing any Event of Default under the Lease. City shall have the right from time to time, upon notice to but without the consent of Landlord, to transfer this Lease or use and occupancy of all or any of the Premises to any department, commission or agency of the City and County of

San Francisco for uses permitted under this Lease. City shall reimburse Landlord for all of Landlord's reasonable expenses in connection with any assignment or sublease not to exceed $3,000.00. This Lease shall be binding upon City and its successors and permitted assigns. Upon Landlord's receipt of City's written notice of a desire to assign or sublet the Premises, or any part thereof (other than to a City Affiliate), Landlord may, by giving written notice to City within 30 days after receipt of City's notice, terminate this Lease with respect to the space described in City's notice, as of the date specified in City's notice for the commencement of the proposed assignment or sublease. Notwithstanding the foregoing, City may withdraw its notice to sublease or assign by notifying Landlord within 10 days after Landlord has given City notice of such termination, in which case the Lease shall not terminate but shall continue.

Notwithstanding any assignment or subletting, City and shall at all times remain fully responsible and liable for the payment of the rent and for compliance with all of City's other obligations under this Lease (regardless of whether Landlord's approval has been obtained for any such assignments or sublettings). In the event that the rent due and payable by a sublessee or assignee (or a combination of the rental payable under such sublease or assignment plus any bonus or other consideration therefor or incident thereto) exceeds the Rent payable for such period under this Lease, then after recovering its commercially reasonable costs to enter into such sublease or assignment (including commercially reasonable brokers fees and the fee paid to obtain Landlord's consent thereto) and to make any Landlord approved tenant improvements required to be made by City at the Premises under such sublease or assignment, City shall be bound and obligated to pay Landlord as additional rent hereunder eighty percent (80%) of such excess rental and other excess consideration within 10 days following receipt thereof by City; provided in the event of a sublease which is less than 100% of the Premises such excess rental and other consideration shall be applied on a square foot basis. Landlord acknowledges and agrees that from time to time City shall utilize third party operators at the Premises for towed vehicles and related operations, and agreements with such third party operators shall not be considered assignments of the Lease or subleases.

If City assigns this Lease, subleases the Premises (whether in whole or in part), mortgages, pledges, or hypothecates City's leasehold interest, grants any concession or license within the Premises to another party or permits another party to occupy the Premises in whole or in part in exchange for rental payments to City (each, a "Transfer"), then upon an Event of Default, Landlord may collect rent to be paid to City from the transferees under such Transfers and, except to the extent set forth in the preceding paragraph, apply the amount collected from such transferees to the next installment of Rent payable hereunder. Any rentals collected by City from such transferees with respect to the Premises during an Event of Default shall be held in trust for Landlord and immediately forwarded to Landlord, and Landlord shall apply such forwarded amounts to the next installment of Rent payable hereunder. No such transaction or collection of rent or application thereof by Landlord, however, shall be deemed a waiver of these provisions or a release of City from the further performance by City of its covenants, duties, or obligations hereunder.

15. DEFAULT; REMEDIES

15.1 Events of Default by City

Any of the following shall constitute an "Event of Default" by City hereunder:

(a) City's failure to make any timely payment of Rent and to cure such nonpayment within five (5) business days after receipt of written notice thereof from Landlord; provided, however, that Landlord shall not be obligated to provide written notice of such failure more than 2 times in any consecutive 12-month period, and the failure of City to pay any third or subsequent installment of Base Rent or any other payment required herein when due in any consecutive 12-month period shall constitute an Event of Default by City under this Lease without the requirement of notice or opportunity to cure; provided, however, that any such notice shall be in lieu of, and not in addition to, any notice required under applicable law;

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

(c) City's (A) making of a general assignment for the benefit of creditors; (B) commencing any case, proceeding or other action seeking to have an order for relief entered on its behalf as a debtor or to adjudicate it as bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or of any substantial part of its property (collectively a "proceeding for relief"); (C) becoming the subject of any proceeding for relief which is not dismissed within 60 days of its filing or entry; or (D) dissolution or other failure to maintain its legal existence; or

(d) City's failure to perform any other covenant or obligation of City hereunder (not involving the payment of money) and to cure such non-performance within thirty (30) days of the date of receipt of notice thereof from Landlord, provided that if more than thirty (30) days are reasonably required for such cure, no Event of Default shall occur if City commences such cure within such period and diligently prosecutes such cure to completion.

15.2 Landlord's Remedies

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

(a) The rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including, but not limited to, the right to terminate City's right to possession of the Premises. Upon such termination, Landlord may recover from City the following, as provided in Section 1951.2 of the Civil Code of California: (i) the worth at the time of award of the unpaid Rent that had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that City proves could have been reasonably avoided; (iii) the worth at the time of award by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such rental loss that City proves could have been reasonably avoided, subject to Section 1951.2(c) of the Civil Code of California; and (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by City's failure to perform its obligations under this Lease or that in the ordinary course of things would be likely to result therefrom. As used herein, the following terms are defined: (A) The "worth at the time of award" of the amounts referred to in clauses (i) and (ii) is computed by allowing interest at the lesser of 18 percent per annum or the maximum lawful rate. The "worth at the time of award" of the amount referred to in clause (iii) is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent; (B) The "time of award" as used in clauses (i), (ii), and (iii) above is the date on which judgment is entered by a court of competent jurisdiction, City acknowledges and agrees that the term "detriment proximately caused by City's failure to perform its obligations under this Lease" includes, without limitation, the value of any abated or free rent given to City.

(b) Even if City breaches this Lease and abandons the Premises, this Lease shall continue in effect for so long as Landlord does not terminate City's right to possession, and Landlord may enforce all its rights and remedies under this Lease, including the right to recover Rent as it becomes due. This remedy is intended to be the remedy described in California Civil Code Section 1951.4, and the following provision from such Civil Code Section is hereby repeated: "The lessor has the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has right to sublet or assign subject only to reasonable limitations)." Any such payments of Rent shall be made when due and City agrees that Landlord may file suit to recover any unpaid payments of Rent that are then due. Notwithstanding any such reletting

without termination, Landlord may at any time thereafter elect in writing to terminate this Lease for such previous abandonment.

(c) Upon the termination of this Lease or termination of City's right of possession, it shall be lawful for Landlord to re-enter the Premises by summary dispossession proceedings or any other action or proceeding authorized by law and to remove City and its Agents, Invitees and property therefrom. If Landlord so re-enters the Premises, Landlord shall have the right to remove from the Premises and store all of the City's furniture, fixtures and equipment. Exercise by Landlord of any one or more remedies hereunder granted or otherwise available shall not be deemed to be an acceptance of surrender of the Premises and/or a termination of this Lease by Landlord, whether by agreement or by operation of law, it being understood that such surrender and/or termination can be effected only by the written agreement of Landlord and City. Any usage or custom to the contrary notwithstanding, Landlord shall have the right at all times to enforce the provisions of this Lease in strict accordance with the terms hereof and applicable Laws; and the failure of Landlord at any time to enforce its rights under this Lease strictly in accordance with same shall not be construed as having created a custom in any way or manner contrary to the specific terms, provisions, and covenants of this Lease or as having modified the same. City and Landlord further agree that forbearance or waiver by Landlord to enforce its rights pursuant to this Lease or at law or in equity, shall not be a waiver of Landlord's right to enforce one or more of its rights in connection with any subsequent default. A receipt by Landlord of rent or other payment with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by Landlord of any provision of this Lease shall be deemed to have been made unless expressed in writing and signed by Landlord. To the greatest extent permitted by law, City waives all right of redemption in case City shall be dispossessed by a judgment or by warrant of any court or judge. Any reletting of the Premises shall be on such terms and conditions as Landlord in its sole discretion may determine (including without limitation a term different than the remaining Term, rental concessions, alterations and repair of the Premises, lease of less than the entire Premises to any tenant and leasing any or all other portions of the Premises), provided such terms and conditions are commercially reasonable. Provided that Landlord has not terminated City's right to possession of the Premises, Landlord shall not be liable, nor shall City's obligations hereunder be diminished because of, Landlord's election not to relet the Premises or collect rent due in respect of such reletting.

15.3 Landlord's Default

Landlord shall not be in default hereunder unless Landlord fails to perform any of its obligations hereunder within 25 days after written notice from City specifying such failure (unless such performance will, due to the nature of the obligation, require a period of time in excess of 25 days, then after such period of time as is reasonably necessary if Landlord commences to cure such failure during the original 25-day period and diligently pursues such cure to completion); provided, however, that if such Landlord failure results in an emergency, Landlord shall be in default hereunder if Landlord fails to perform any of its obligations hereunder within 10 days after written notice from City specifying such failure (unless such performance will, due to the nature of the obligation, require a period of time in excess of 10 days, then after such period of time as is reasonably necessary if Landlord commences to cure such failure during the original 10-day period and diligently pursues such cure to completion). For the purposes of the foregoing sentence, an "emergency" shall mean an imminent threat of personal injury to City's employees or material damage to City's equipment or other property at the Premises.

In the event that City delivers written notice of a Landlord default and Landlord does not timely commence to cure such default within the time periods set forth above (or if Landlord timely commences such cure but fails to diligently pursue such cure to completion), City shall have the right, but not the obligation, to make any reasonable and necessary repairs to the roof, foundation, floors and exterior walls of the Premises, the roof membrane, skylights, roof vents, drains and downspouts of the Premises, and the exterior and under slab utility systems for the

Premises, as may be reasonably necessary to prevent material damage to the equipment or property of City situated in the Premises, material interference with City's operations at the Premises, or personal injury to City's employees, provided City has no reasonable alternative and has notified or attempted in good faith to notify Landlord's representative of such election by telephone (with subsequent written notice as soon as practicable). The provisions of this paragraph do not designate City as Landlord's agent for the purposes of any such repairs. Landlord shall reimburse City for the reasonable, out-of-pocket costs incurred by City in making such emergency repairs to the roof, foundation or exterior walls, as applicable, up to (but not to exceed) $125,000.00 with respect to each such occurrence, within thirty (30) days after submission by City to Landlord of an invoice therefore, accompanied by reasonable supporting documentation for the costs so incurred. In the event Landlord fails or refuses to reimburse City for such costs within such thirty (30) day period and City brings an action for recovery of such amounts from Landlord as provided for in this Lease, then City shall be entitled to recover, in addition to the amount of such costs, interest on such amounts from the date incurred by City until recovered from Landlord, at the interest rate specified in Section 23.39 below, and the reasonable attorneys' fees and other costs of court incurred by City in pursuing such action.

All obligations of Landlord hereunder shall be construed as covenants, not conditions; and, except as may be otherwise expressly provided in this Lease, City may not terminate this Lease for breach of Landlord's obligations hereunder. Any liability of Landlord under this Lease shall be limited solely to its interest in the Premises, and in no event shall any personal liability be asserted against Landlord in connection with this Lease nor shall any recourse be had to any other property or assets of Landlord. City's rights hereunder shall not limit in any way any of its other rights and remedies hereunder or at law or in equity.

16. INDEMNITIES

16.1 City's Indemnity

City shall indemnify, defend and hold harmless ("Indemnify") Landlord and its Agents from and against any and all claims, costs, expenses, losses, demands, actions, suits, and damages, including, without limitation, punitive damages and reasonable attorneys' fees, consultants' fees or expert fees (collectively, "Claims"), incurred as a result of (a) City's use of the Premises, (b) any Event of Default arising from City's failure to perform any of its material obligations under this Lease, or (c) any negligent acts or omissions of City or its Agents or Invitees in, on or about the Premises; provided, however, City shall not be obligated to Indemnify Landlord or its Agents to the extent any Claim arises out of the negligence or willful misconduct of Landlord or its Agents. In any action or proceeding brought against Landlord or its Agents by reason of any Claim Indemnified by City hereunder, City may, at its sole option, elect to defend such Claim by attorneys in City's Office of the City Attorney, by other attorneys selected by City, or both. City shall have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that Landlord shall have the right, but not the obligation, to participate in the defense of any such Claim at its sole cost. City's obligations under this Section shall survive the termination of the Lease.

16.2 Landlord's Indemnity

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

obligation, to participate in the defense of any such Claim at its sole cost. Landlord's obligations under this Section shall survive the termination of this Lease. This indemnity does not cover claims arising from the presence or release of Hazardous Materials.

16.3 Indemnity Notification

If an indemnitee under either of the foregoing indemnities has a claim which the indemnitee believes to be covered by an indemnitor's indemnification obligations hereunder, the indemnitee shall promptly notify the indemnitor of the claim and, in such notice shall offer to the indemnitor the opportunity to assume the defense of the claim within twenty (20) business days after receipt of the notice (with counsel reasonably acceptable to the indemnitee). Landlord acknowledges that attorneys of the County and City of San Francisco, Office of the City Attorney shall be reasonably acceptable to Landlord if Landlord is requiring City to indemnify Landlord pursuant to Section 16.1. If the indemnitor timely elects to assume the defense of the claim, the indemnitor shall have the right to settle the claim on any terms it considers reasonable and without the indemnitee's prior written consent, as long as the settlement shall not require the indemnitee to render any performance or pay any consideration, and the indemnitee shall not have the right to settle any such claim. If the indemnitor fails timely to elect to assume the defense of the claim or fails to defend the claim with diligence, then the indemnitee shall have the right to take over the defense of the claim and to settle the claim on any terms the indemnitee considers reasonable. Any such settlement shall be valid as against the indemnitor. If the indemnitor assumes the defense of a claim, the indemnitee may employ its own counsel but such employment shall be at the sole expense of the indemnitee. If any such claim arises out of the negligence of both Landlord and City, responsibility for such claim shall be allocated between Landlord and City based on their respective degrees of negligence.

17. INSURANCE

17.1 City's Insurance and Self-Insurance Option

City, at its expense, shall maintain during the Term the following insurance, at City's sole cost and expense: (1) commercial general liability insurance applicable to the Premises and its appurtenances providing, on an occurrence basis, a minimum combined single limit of $2,000,000; (2) all risk or special form property insurance covering the full replacement cost of all property and improvements installed or placed in the Premises by City; (3) workers' compensation insurance as required by the state in which the Premises is located and in amounts as may be required by applicable statute and shall include a waiver of subrogation in favor of Landlord; (4) employers liability insurance of at least $1,000,000, (5) business automobile liability insurance having a combined single limit of not less than $2,000,000 per occurrence insuring City against liability arising out of the ownership maintenance or use of any owned, hired or nonowned automobiles, and (6) business interruption insurance with a limit of liability representing loss of at least approximately 6 months of income. Any company writing any of City's insurance shall have an A.M. Best rating of not less than A-VIII and provide primary coverage to Landlord (any policy issued to Landlord providing duplicate or similar coverage shall be deemed excess over City's policies). All commercial general liability insurance policies shall name City as a named insured and Landlord, its property manager, and other designees of Landlord as the interest of such designees shall appear, as additional insureds. The limits and types of insurance maintained by City shall not limit City's liability under this Lease. City shall provide Landlord with certificates of such insurance as required under this Lease prior to the earlier to occur of the Lease Commencement Date or the date City is provided with possession of the Premises, and thereafter upon renewals at least 15 days prior to the expiration of the insurance coverage. Acceptance by Landlord of delivery of any certificates of insurance does not constitute approval or agreement by Landlord that the insurance requirements of this section have been met, and failure of Landlord to identify a deficiency from evidence provided will not be construed as a waiver of City's obligation to maintain such insurance. In the event any of the insurance policies required to be carried by City under this Lease shall be cancelled prior to the expiration date of such policy, or if City receives notice of any cancellation of such insurance

policies from the insurer prior to the expiration date of such policy, City shall: (a) immediately deliver notice to Landlord that such insurance has been, or is to be, cancelled, (b) shall promptly replace such insurance policy in order to assure no lapse of coverage shall occur, and (c) shall deliver to Landlord a certificate of insurance for such policy. The insurance required to be maintained by City hereunder are only Landlord's minimum insurance requirements and City agrees and understands that such insurance requirements may not be sufficient to fully meet City's insurance needs.

Notwithstanding anything to the contrary herein, Landlord acknowledges that City maintains a program of self-insurance and agrees that City shall not be required to carry any insurance with respect to this Lease if (i) City maintains a tangible net worth of at least $100,000,000, and (ii) City governs and manages its self-insurance program in a manner consistent with programs managed by prudent businesses, and (iii) applicable law does not prohibit or render unenforceable an indemnification of a landlord for its own negligence. Upon request City shall supply Landlord from time to time with evidence reasonably satisfactory to Landlord of City's tangible net worth and the satisfaction of the conditions set forth above. If City elects to self-insure, City shall be responsible for any losses or liabilities which would have been assumed by the insurance companies which would have issued the insurance required of City under the Lease. City will notify Landlord in advance of any period for which it intends to self insure and shall provide Landlord with satisfactory evidence that it complies with these requirements in order to give Landlord an opportunity to confirm the satisfaction of the conditions set forth above. Self-insurance does not relieve the tenant of its obligations under this Lease pertaining to the waiver of subrogation or Paragraph 16.1 pertaining to indemnification. City assumes the risk of damage to any of City's Personal Property and any Alterations constructed by City resulting from those causes for which Landlord is not required to indemnify City hereunder.

17.2 Landlord's Insurance

At all times during the Term, Landlord shall keep the Building (excluding the land upon which it is located) insured against damage and destruction by fire, vandalism, malicious mischief, sprinkler damage and other perils customarily covered under a cause of loss special form property insurance policy in an amount equal to one hundred percent (100%) of the full insurance replacement value (replacement cost new, including, debris removal and demolition) thereof. Landlord shall, upon request by City, provide to City a certificate of insurance issued by the insurance carrier, evidencing the insurance required above. The certificate shall expressly provide that the policy is not cancelable or subject to, reduction of coverage or otherwise subject to modification except after thirty (30) days prior written notice to City. Landlord hereby waives any rights against City for loss or damage to the Premises to the extent covered by Landlord's property insurance.

In addition, Landlord shall procure and keep in effect at all times during the Term insurance as follows: Commercial general liability insurance with limits not less than One Million Dollars ($1,000,000) each occurrence combined single limit for bodily injury and property damage, including contractual liability, independent contractors, broad-form property damage, fire damage legal liability (of not less than Fifty Thousand Dollars ($50,000)), personal injury, products and completed operations, and explosion, collapse and underground (XCU). The cost of the foregoing insurance may be included as an Operating Expense. The insurance maintained by Landlord during the Base Year shall include earthquake insurance and business interruption insurance, which includes flood, terrorism, and boiler and machinery coverage, and the costs thereof shall be included in the Operating Expenses for the Base Year. If Landlord elects to maintain such other insurance and additional coverages as it may deem necessary, including but not limited to, rent loss insurance, the cost of such other insurance or coverages obtained by Landlord shall be included as part of the Operating Expenses if such insurance or coverage is typically carried for similar commercial properties in San Francisco County or San Mateo County. The Premises or Building may be included in a blanket policy (in which case the cost of such insurance allocable to the Premises or Building will be determined by Landlord

based upon the total insurance cost calculations). City shall also reimburse Landlord for any increased premiums or additional insurance which Landlord's insurer reasonably deems necessary as a result of changes to the original Permitted Uses.

17.3 Waiver of Subrogation

Notwithstanding anything to the contrary contained herein, any all risk or special form property insurance obtained by Landlord or City for the Premises shall include a waiver of subrogation by the insurers and all rights based upon an assignment from its insured, against Landlord or City, their officers, directors, employees, managers, agents, invitees and contractors, in connection with any loss or damage thereby insured against. Neither party nor its officers, directors, employees, managers, agents, invitees or contractors shall be liable to the other for loss or damage caused by any risk coverable by such all risk or special form property insurance, and each party waives any claims against the other party, and its officers, directors, employees, managers, agents, invitees and contractors for such covered loss or damage. The failure of a party to insure its property at the Premises shall not void this waiver. City and its agents, employees and contractors shall not be liable for, and Landlord hereby waives all claims against such parties for losses resulting from an interruption of Landlord's business, or any person claiming through Landlord, resulting from any accident or occurrence in or upon the Premises or the Building from any cause whatsoever, including without limitation, damage caused in whole or in part, directly or indirectly, by the negligence of City or its agents, employees or contractors. Landlord and its agents, employees and contractors shall not be liable for, and City hereby waives all claims against such parties for losses resulting from an interruption of City's business, or any person claiming through City, resulting from any accident or occurrence in or upon the Premises or the Building from any cause whatsoever, including without limitation, damage caused in whole or in part, directly or indirectly, by the negligence of Landlord or its agents, employees or contractors.

Notwithstanding anything to the contrary contained herein, City hereby waives any right of recovery against Landlord for any loss or damage sustained by City with respect to City's Personal Property or Alterations, to the extent such loss or damage is covered by insurance purchased by City or would have been covered by insurance which would have been considered to be commercially available to City, had City not elected to self-insure.

18. ACCESS BY LANDLORD

Landlord reserves for itself and any designated Agent the right to enter the Premises at all reasonable times and, except in cases of emergency (in which event Landlord shall give any reasonable notice), after giving City at least twenty four (24) hours' advance written or oral notice, for the purpose of **(a)** inspecting the Premises, **(b)** supplying any service to be provided by Landlord hereunder, **(c)** showing the Premises to any prospective purchasers, mortgagees or, during the last twelve (12) months of the Term of this Lease, tenants, **(d)** posting notices of non-responsibility, and **(e)** altering, improving or repairing the Premises and any portion of the Building, and Landlord may for that purpose erect, use and maintain necessary structures in and through the Premises where reasonably required by the character of the work to be performed, provided that the entrance to the Premises shall not be blocked thereby, and further provided that City's use shall not be interfered with. Landlord may grant easements and create restrictions on or about the Premises, provided that no such easement or restriction interferes with City's use or occupancy of the Premises pursuant to this Lease. At Landlord's request, City shall execute such instruments as may be necessary for such easements or restrictions.

19. ESTOPPEL CERTIFICATES

Either party, from time to time during the Term upon not less than twenty (20) days' prior written notice from the other party, may reasonably request the other party to execute, acknowledge and deliver to such persons or entities designated by such other party a certificate stating: **(a)** the Lease Commencement Date, the Rent Commencement Date, and Expiration Date

of this Lease, **(b)** that this Lease is unmodified and in full force and effect (or, if there have been modifications, this the Lease is in full force and effect as modified and stating the modifications), **(c)** that there are no defaults under this Lease (or if so, specifying the same), and **(d)** the date to which Rent has been paid. City's obligation to furnish such a certificate in a timely fashion is a material inducement for Landlord's execution of this Lease. No cure or grace period provided in this Lease shall apply to City's obligations to timely deliver an estoppel certificate.

20. SURRENDER OF PREMISES

Upon the expiration or sooner termination of this Lease, City shall surrender the Premises to Landlord in the same condition received, reasonable use and wear and damage by fire or other casualty excepted. Prior to the Expiration Date, City shall remove from the Premises all of City's Personal Property and any Alterations City desires to remove from the Premises pursuant to the provisions of Section 7.1 (Alterations by City), above. City shall repair or pay the cost of repairing any damage to the Premises or the Building resulting from such removal. Notwithstanding anything to the contrary in this Lease, City shall not be required to demolish or remove from the Premises any leasehold improvements. City's obligations under this Section shall survive the expiration or earlier termination of this Lease. City shall remove any odor which may exist in the Premises resulting from City's occupancy of the Premises upon the termination of the Term or earlier termination of City's right of possession. All obligations of City hereunder not fully performed as of the termination of the Term shall survive the termination of the Term, including without limitation, indemnity obligations, payment obligations with respect to Excess Operating Expenses and all obligations concerning the condition and repair of the Premises.

21. HAZARDOUS MATERIALS

21.1 Definitions

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

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

(b) "Hazardous Material" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended (42 U.S.C. Section 9601 et seq.), or pursuant to Section 253 16 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 251 40 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of the Building or are naturally occurring substances on or about the Premises; and petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas). As defined in Environmental Laws, during the Term, City is and shall be deemed to be the "operator" of City's "facility" and the "owner" of all Hazardous Materials brought on the Premises by City, its Agents or Invitees, and the wastes, by-products, or residues generated, resulting, or produced therefrom.

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

21.2 Landlord's Representations and Covenants

Except as may be disclosed in that certain Phase I Environmental Site Assessment prepared by URS Corporation Americas, dated July 29, 2011, Landlord represents and warrants to City that, to the best of Landlord's current, actual knowledge, there are no Hazardous Materials in reportable quantities on or being released from or onto the Premises. The phrase "current, actual knowledge of Landlord" shall mean and refer only to the best of the current, actual knowledge of the officers and employees of Landlord having direct, operational responsibility for the Premises, with the express limitations and qualifications that the knowledge of any contractor or consultant shall not be imputed to Landlord except to the extent disclosed to such Landlord officers or employees, and none of such officers or employees has made any special investigation or inquiry, and except for reviewing the environmental status of the Premises with Landlord contractors or subcontractors that have prepared reports of their review of the environmental condition of the Premises, none of such officers has any duty or obligation of diligent investigation or inquiry, or any other duty or obligation, to acquire or to attempt to acquire information beyond or in addition to the current, actual knowledge of such persons.

21.2 Landlord's Covenants

If Hazardous Materials are hereafter discovered on the Premises, and such Hazardous Materials either existed at the Premises prior to the Lease Commencement Date or were released by any party other than City or its Agents or Invitees, and the presence of such Hazardous Materials results in any contamination, damages, or injury to the Premises that materially and adversely affects City's occupancy or use of the Premises or human health or requires remediation under Environmental Laws, Landlord shall promptly take all actions at its sole expense as are necessary to remediate such Hazardous Materials and as may be required by the Environmental Laws. Actual or threatened action or litigation by any governmental authority is not a condition prerequisite to Landlord's obligations under this Section. Landlord's obligations under this Section shall not apply to any remediation of such Hazardous Materials to the extent released by any act or omission of City or its Agents, or Invitees. Within thirty (30) days after notification from City supported by reasonable documentation setting forth such presence or release of Hazardous Materials, and after Landlord has been given a reasonable period of time after such thirty (30) day period to conduct its own investigation to confirm such presence or release of Hazardous Materials, Landlord shall commence to remediate such Hazardous Materials within one hundred eighty (180) days after the completion of Landlord's investigation and thereafter diligently prosecute such remediation to completion. If Landlord commences remediation pursuant to this Section, the Base Rent and Excess Operating Expenses shall be equitably adjusted if and to the extent and during the period the Premises are unsuitable for City's business. Notwithstanding anything herein to the contrary, if Landlord obtains a letter from the appropriate governmental authority that no further remediation is required, Landlord's obligation to remediate as provided in this Section shall be null and void as of the date Landlord receives such letter.

21.3 City's Covenants

City and its Agents and Invitees shall not permit or cause any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises, or transported to or from the Premises, except as expressly permitted in this Section below. City, at its sole cost and expense, shall operate its business in the Premises in strict compliance with all Environmental Laws and shall remediate in a manner satisfactory to Landlord any Hazardous Materials released on or from the Premises by City, its Agents, or its Invitees. City shall complete and certify to disclosure statements as reasonably requested by Landlord from time to time relating to City's transportation, storage, use, generation, manufacture or release of any Hazardous Materials on the Premises. Without limiting the uses which are permitted under the terms of this Lease, Landlord acknowledges that City may use the Premises for the Permitted Uses and connection with such uses may use substances such as cleaning fluids, gasoline, diesel and other vehicle fluids, paints and solvents, including the materials listed on the attached

Exhibit C, so long as such use is in compliance with all applicable Environmental Laws. No cure or grace period provided in this Lease shall apply to City's obligations to comply with the terms and conditions of this Section.

Landlord shall have access to, and a right to perform inspections and tests of, the Premises to determine City's compliance with Environmental Laws, its obligations under this Section, or the environmental condition of the Premises; provided that such inspections and tests do not materially interfere with the Permitted Uses. Access shall be granted to Landlord upon not less than one (1) business days' prior notice to City and at such times so as to minimize, so far as may be reasonable under the circumstances, any disturbance to City's operations. Such inspections and tests shall be conducted at Landlord's expense, unless such inspections or tests reveal that City has not complied with any Environmental Requirement, in which case City shall reimburse Landlord for the reasonable cost of such inspection and tests. Landlord's receipt of or satisfaction with any environmental assessment in no way waives any rights that Landlord holds against City. Except for Hazardous Materials released by City or its Agents or Invitees, Landlord shall be the generator of, and responsible party for, any Hazardous Material released or disturbed by the performance of such Landlord inspections or tests and shall take immediate actions to stop and remediate any such release, to properly dispose of any Hazardous Material removed from the Premises as part of such Landlord inspections or tests, notify City about any such release and remediate any Hazardous Material to the extent it was released or otherwise disturbed through the performance of such Landlord inspections or tests.

21.4 City's Environmental Indemnity

If City breaches its obligations contained in the preceding Section 21.4, or if City or its Agents cause the Release of Hazardous Material from, in, on or about the Premises, then City shall Indemnify Landlord against any and all Claims (including, without limitation, diminution in value of the Premises, loss of rental income from the Premises, removal, repair, corrective action, or cleanup expenses, removal or management of any asbestos brought into the Premises or disturbed in breach of the requirements of this Section, regardless of whether such removal or management is required by Environmental Laws), arising during or after the Term of this Lease as a result of such Release, except to the extent Landlord or its Agents is responsible for the Release. The foregoing Indemnity shall not include any Claims resulting from the non-negligent aggravation by City, its Agents or Invitees of physical conditions of the Premises existing prior to City's occupancy. The obligations of City under this Section shall survive any termination of this Lease.

22. ONE-TIME FIRST NEGOTIATION RIGHT

22.1 Sale Notice; Offer

(a) Provided that, as of the date of the giving of a Sale Notice (defined as follows), (i) City is the Tenant originally named herein and (ii) no Event of Default or event which but for the passage of time or the giving of notice, or both, would constitute an Event of Default has occurred and is continuing, then subject to and in accordance with the terms of this Section, Landlord hereby grants to City an exclusive and irrevocable right of first negotiation (the "One-Time First Negotiation Right") for the purchase of the Premises. If Landlord elects to sell the Premises during the Term, Landlord shall first offer the Premises to City at the purchase price that the Premises will be offered to the real estate market. Said purchase price (the "Purchase Price") shall be contained in a written notice ("Sale Notice") from Landlord to City, and the Sale Notice shall be delivered together with a copy the following reports for the Premises (collectively, the "Due Diligence Reports"), prepared by reputable, qualified and licensed vendors and at a customary and reasonable cost for the market area:

(1) An appraisal of the fair market value of the Property, prepared by a "MAI" designated member of the Appraisal Institute and issued no earlier than the sixty (60) day period preceding such delivery;

(2) A Phase I environmental report, which shall have been issued no earlier than the sixty (60) day period preceding such delivery;

(3) An ALTA title insurance, an ALTA survey prepared no earlier than the sixty (60) day period preceding such delivery;

(4) A preliminary title report, with supporting documents, which shall have been issued no earlier than the sixty (60) day period preceding such delivery;

(5) A structural report of the Building, which shall have been issued no earlier than the sixty (60) day period preceding such delivery;

(6) A roof report for the Building, which shall have been issued no earlier than the sixty (60) day period preceding such delivery;

(b) City shall have ten (10) days from receiving the Sale Notice ("Offer Period") to submit a conditional offer to purchase the Premises for the Purchase Price (the "Offer"), subject to the timely negotiation of the final form of Purchase and Sale Agreement (defined as follows), and final approval from the SFMTA Board of Directors and, if applicable, the City's Board of Supervisors ("BOS") and Mayor. City's delivery of an Offer is irrevocable except as provided herein. If City timely delivers the Offer, then within twenty-five (25) days after the termination of the Offer Period (the "Agreement Period"), the parties shall negotiate a form of purchase and sale agreement (the "Purchase and Sale Agreement"), which shall include, but not be limited to, the terms set forth in this Section. In such negotiations, Landlord and Tenant shall use good faith, commercially reasonable efforts to negotiate the Purchase and Sale Agreement and consummate a transaction with City.

(c) In the event Landlord timely delivers the Due Diligence Reports and City elects to timely submit an Offer, City shall reimburse Landlord for the costs of such vendors (up to the amount pre-approved by the City), plus a ten-percent (10%) administrative fee payable to the Landlord. Such reimbursement shall be made whether or not City consummates the purchase of the Property, and shall be due within the sixty (60) day period immediately following Landlord's delivery of the Due Diligence Reports and commercially-reasonable invoices and supporting cost documentation evidencing the costs for such Due Diligence Reports.

22.2 Purchase and Sale Agreement Terms.

Among other things, the Purchase and Sale Agreement will include, but not be limited to, the following language:

(a) The SFMTA Board of Directors and, if applicable, the BOS and City's Mayor, shall have given final approval to the Purchase and Sale Agreement.

(b) The Earnest Money Deposit (defined below) shall be credited against the Purchase Price at the close of escrow pursuant to the Purchase and Sale Agreement ("Closing"). The Earnest Money Deposit shall be refunded to City if Closing fails to occur as a result of: (i) Landlord's failure to perform its obligations under the Purchase and Sale Agreement; (ii) any Landlord representation or warranty in the Purchase and Sale Agreement being materially untrue at the time when made or at Closing and has a material and adverse impact on City or the Premises; or (iii) a material condition to closing is not satisfied (other than those conditions within the reasonable control of City) (collectively, the "Refund Conditions").

(c) If the SFMTA Board of Directors approves a proposed Purchase and Sale Agreement before the expiration of the SFMTA Board Review Period and the BOS and City's Mayor approves a proposed Purchase and Sale Agreement before the expiration of the BOS

Review Period (as defined in Section 22.3), City shall sign and deliver the Purchase and Sale Agreement to Landlord within three (3) days of such approval and shall submit an amount equal to the Purchase Price, less the Earnest Money Deposit, to escrow within fifteen (15) business days after its delivery of the fully-executed Purchase and Sale Agreement to Landlord. Such deposited funds shall not be refunded to City unless Closing fails to occur pursuant to the Refund Conditions.

(d) Closing shall occur on or before the date that is thirty (30) days after City's delivery of the fully-executed Purchase and Sale Agreement to Landlord.

(e) City shall pay the costs of its title insurance policy, one-half (1/2) of the escrow fees, and one-half (1/2) of the other closing expenses customarily paid by buyers of commercial property in San Mateo County. If any transfer taxes are imposed in connection with the sale of the Premises to City, such transfer taxes shall be paid in accordance with the custom at the time of Closing in San Mateo County. Landlord shall pay one-half (1/2) of the escrow fees, and one-half (1/2) of the other closing expenses customarily paid by sellers of commercial property in San Mateo County.

(f) At least one (1) business day prior to the scheduled Closing, Landlord shall deliver the following (among other customary items) into escrow with a mutually agreeable escrow and title company on City's approved vendor list at the time the Purchase and Sale Agreement is negotiated: fee simple title to the Premises by special warranty deed (warranting title by, through, or under Landlord, but not otherwise) subject only to all matters of record and those matters which a correct survey would show but free and clear of any liens and any other exceptions created by, under, or through Landlord, and other exceptions City either did not object to or has accepted after objection; a bill of sale for all personal property on the Premises owned by Landlord; and an assignment of all warranties and intangible property for the Premises.

(g) The sale shall be "as-is" with no representations or warranties from Landlord, subject to satisfactory completion of any Landlord Lease obligations that arise prior to Closing. At Closing City shall waive (in writing satisfactory to Landlord and in a form reasonably acceptable to City) any, warranty or representation with respect to the Premises (other than title to the Premises as provided above) and shall release Landlord from any right or claims, known or unknown, with respect to the physical or environmental condition of the Premises or the compliance of the Premises with applicable law, but excluding any disclosures Landlord is required to make under applicable law. City is relying on its own inspection and review of the Premises.

(h) The Purchase Price shall be payable in immediately available funds at Closing. The intent of the parties is that the Purchase Price shall be absolutely net to Landlord, with the sole exception being that Landlord shall pay its attorneys' fees and brokers' fees, and its share of escrow fees and closing expenses.

(i) Taxes and other expenses and all Rent (as defined in Section 4.3) due by City to Landlord under the Lease shall be prorated to the date of Closing. The Lease Term shall be terminated as of Closing.

(j) Landlord may conduct the sale as a tax-free exchange pursuant to Section 1031 of the Internal Revenue Code. Such exchange shall be conducted through a qualified intermediary, at no cost to City and at no delay, and without affecting Landlord's obligations to City. City shall not be required to take title to any other property in connection with a Section 1031 exchange.

22.3 Approval Period

If the parties mutually agree to the form of Purchase and Sale Agreement during the Agreement Period, Landlord shall execute the proposed Purchase and Sale Agreement and, within five (5) business days of receiving such Purchase and Sale Agreement executed by Landlord, SFMTA shall submit the proposed Purchase and Sale Agreement to the SFMTA Board of Directors for approval. SFMTA shall have a thirty (30) calendar day period (the "SFMTA Board Review Period") following such submittal to have the proposed Purchase and Sale Agreement considered by the SFMTA Board of Directors; provided, however, that if the SFMTA Board of Directors does not hold all regularly scheduled open meetings during the original SFMTA Board Review Period, the original SFMTA Board Review Period shall be automatically extended through the date of the first regularly scheduled SFMTA Board meeting that immediately follows the initial SFMTA Board Review Period.

Notwithstanding anything to the contrary herein, any automatic extensions of the SFMTA Board Review Period shall be limited to 10 days.

If the SFMTA Board of Directors approves the proposed Purchase and Sale Agreement prior to the termination of the SFMTA Board Review Period (as it may be extended pursuant to the foregoing paragraph), City shall submit to escrow a deposit equal to five percent (5%) of the Purchase Price (the "Earnest Money Deposit") within five (5) business days after SFMTA Board of Directors approval and shall submit the proposed Purchase and Sale Agreement to the Clerk of the BOS. City shall have the six (6) week period (the "BOS Review Period") immediately following the SFMTA Board approval of the Purchase and Sale Agreement to have the proposed Purchase and Sale Agreement considered and approved by the BOS and the City's Mayor; provided, however, that if a regularly scheduled meeting of the BOS or the BOS committee to which the proposed Purchase and Sale Agreement is referred is not scheduled or is cancelled during the original BOS Board Review Period, the original BOS Review Period shall be automatically extended by the number of days that elapse between such unscheduled or cancelled meeting and the next regularly scheduled meeting. The Earnest Money Deposit shall be refunded to City only if the BOS or the City's Mayor does not approve the Purchase and Sale Agreement within the BOS Review Period or if the Earnest Money Deposit is refundable pursuant to the Refund Conditions of the Purchase and Sale Agreement.

Notwithstanding anything to the contrary herein, any automatic extensions of the BOS Review Period shall be limited to 10 days.

Landlord acknowledges that the SFMTA Board of Directors and, if applicable, the City's BOS and Mayor, shall each have sole discretion in approving or not approving the proposed Purchase and Sale Agreement. If City does not obtain the timely approval of the SFMTA Board of Directors and, if applicable, the City's BOS and Mayor to the negotiated form of Purchase and Sale Agreement, the Offer shall be automatically revoked. If City timely receives final approval from the SFMTA Board of Directors and, if applicable, City's BOS and Mayor, City shall execute the Purchase and Sale Agreement and deliver the fully executed Purchase and Sale Agreement to Landlord.

22.4 Waiver of One-Time First Negotiation Right

Time is of the essence with respect to City's delivery of the Offer, the parties' negotiation of a Purchase and Sale Agreement, and City's submission of the proposed Purchase and Sale Agreement for its approval process if the parties timely negotiate the final form of Purchase and Sale Agreement. If (i) City does not deliver an Offer before the above deadline set forth in this Section 22, (ii) the parties do not negotiate a final form of Purchase and Sale Agreement before the above deadline set forth in this Section 22, (iii) City does not promptly submit a Purchase and Sale Agreement for its approval process, (iv) City does not obtain final approval of a Purchase and Sale Agreement from the SFMTA Board of Directors before the above deadline set forth in this Section 22, or, (v) if applicable, (v) City does not obtain final approval of a Purchase and Sale Agreement from the BOS and City's Mayor before the above deadline set forth in this Section 22 and in accordance with the terms of the One-Time First Negotiation Right, City shall

be deemed to have irrevocably waived all further rights to the One-Time First Negotiation Right with respect to such Sale Notice, and Landlord shall be free to sell the Premises to any other party(s) subject to this Lease (but not subject to the One-Time First Negotiation Right), provided the sales price shall not be less than ninety percent (90%) of the Purchase Price. If Landlord wishes to sell the Premises for less than ninety percent (90%) of the Purchase Price, the One-Time First Negotiation Right shall apply and Landlord shall deliver a new Sale Notice with the new proposed Purchase Price to City. Landlord shall notify any other potential back-up purchaser during the Offer Period, the Agreement Period or the Approval Period that Landlord is in negotiations with City for the purchase of the Premises.

22.5 Excluded Transfers

Notwithstanding anything to the contrary herein, the One-Time First Negotiation Right shall not apply in the event of the following transfers of all or any portion of the Premises, which transfers shall be made subject to the Lease and the One-Time First Negotiation Right:

(a) transfers to Affiliates of Landlord (defined as follows). The term "Affiliates of Landlord " means any corporation (A) that owns 75% or more of the voting stock of Landlord; (B) 75% or more of whose voting stock is owned by Landlord; or (C) 75% or more of the voting stock is owned by a corporation that also owns 50% or more of the voting stock of Landlord;

(b) transfers of the Premises as collateral security;

(c) transfers to any investment funds, joint venture or partnership into which Landlord, or any Affiliate of Landlord, enters or joins;

(d) transfers in connection with any debt or equity financing, or transfers pursuant to a foreclosure or a deed in lieu thereof;

(e) transfers in connection with a sale of all or substantially all of Landlord's assets or its shares;

(f) transfers of the Premises in connection with a governmental taking or exercise of eminent domain;

(g) transfers in connection with a lease back of the Premises by Landlord; and/or

(h) transfers to a real estate investment fund in which Landlord owns a minimum of 5% interest, including, without limitation, Internal Revenue Code Section 1031 exchanges.

22.6 Due Diligence Investigation

With the Sale Notice, Landlord shall provide the Due Diligence Reports to City. City shall have forty-five (45) days following the delivery of an Offer to perform its due diligence investigation (the "Due Diligence Period"). During such Due Diligence Period, Landlord will cooperate with City. City may revoke the Offer by delivering notice of such revocation to Landlord within the Due Diligence Period if City is not satisfied with any aspect of the Premises, including the condition of title. If City timely revokes the Offer pursuant to this Section, the Lease shall continue in full force and effect and City shall be deemed to have irrevocably waived all further rights to the One-Time First Negotiation Right with respect to such Sale Notice, and Landlord may sell the Premises for no less than ninety percent (90%) of the Purchase Price. If Landlord wishes to sell the Premises for less than ninety percent (90%) of the Purchase Price, the One-Time First Negotiation Right shall apply and Landlord shall deliver a new Sale Notice with the new proposed Purchase Price to City. If City timely delivers an Offer in respect to such new

Sale Notice, City shall have a new Due Diligence Period with respect to such new Offer; provided, however, City shall only have the right to object to matters that are new and arose after the original Due Diligence Period.

22.7 Inspections and Inquiries

From and after the Lease Commencement Date and continuing through the date the One-Time First Negotiation Right becomes void or is waived pursuant to the provisions of Section 22.4 or, if City and Landlord execute the Purchase and Sale Agreement, through the termination of the due diligence period specified therein, City shall be permitted to make such examinations, tests, analyses, investigations, surveys, inquiries and other inspections in connection with City's examination of the Premises as City deems necessary or desirable. Notwithstanding the forgoing, City shall not perform any borings, samplings, soils tests, groundwater tests or other intrusive physical environmental audit procedures on the Premises without first providing Landlord a detailed work plan describing with specificity the nature, scope, location and purpose of all of such activities to be performed on the Premises and thereafter obtaining Landlord's prior written consent to such activities, it being agreed that Landlord shall consider any request by Tenant to conduct a Phase II environmental assessment of the Premises, but Landlord is not obligated to grant consent. City, at its sole expense, shall repair any and all damage resulting from any of the tests, studies, inspections and investigations performed by or on behalf of City that are permitted under this Section. In the event City timely submits the Offer, Landlord hereby irrevocably authorizes City and its Agents to make all inquiries with and applications to any regulatory authority with jurisdiction over the Premises as City may reasonably require to complete its due diligence investigations on the Premises; provided, however, that no such application shall impact Landlord's ownership of or title to the Premises in the event the Closing fails to occur, and if any such inquiries include a request to conduct a Phase II environment assessment of the Premises, Landlord shall consider such request, but Landlord is not obligated to grant consent.

23. GENERAL PROVISIONS

23.1 Notices

Except as otherwise specifically provided in this Lease, any notice given under this Lease shall be in writing and given by delivering the notice in person or by commercial courier, or by sending it by first-class mail, certified mail, return receipt requested, or Express Mail, return receipt requested, with postage prepaid, to: **(a)** City at Tenant's address set forth in the Basic Lease Information; or **(b)** Landlord at Landlord's address set forth in the Basic Lease Information; or **(c)** such other address as either Landlord or City may designate as its new address for such purpose by notice given to the other in accordance with this Section. Any notice hereunder shall be deemed to have been given and received two (2) days after the date when it is mailed if sent by first-class, certified mail, one day after the date when it is mailed if sent by Express Mail, or upon the date personal delivery is made. For convenience of the parties, copies of notices may also be given be telefacsimile to the telefacsimile number set forth in the Basic Lease Information or such other number as may be provided from time to time; however, neither party may give official or binding notice by facsimile.

23.2 No Implied Waiver

No failure by either party to insist upon the strict performance of any obligation of the other party under this Lease or to exercise any right, power or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such term, covenant or condition. No acceptance of full or partial Rent by Landlord while City is in default hereunder shall constitute a waiver of such default by Landlord. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such

express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. The consent of Landlord or City given in one instance under the terms of this Lease shall not relieve the other party of any obligation to secure the consent to any other or future instance under the terms of the Lease.

23.3 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 shall affect or alter this Lease, but each and every term, covenant and condition of this Lease shall continue in full force and effect with respect to any other then-existing or subsequent breach thereof. Whenever this Lease requires or permits the giving by City of its consent or approval, the Director of Property, or his or her designee, shall be authorized to provide such approval, except as otherwise provided by applicable law, including the Charter of the City and County of San Francisco. Any amendments or modifications to this Lease, including, without limitation, amendments to or modifications to the exhibits to this Lease, shall be subject to the mutual written agreement of City and Landlord, and City's agreement may be made upon the sole approval of SFMTA's Director of Transportation 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 of this Lease, and **(e)** any other amendment or modification which materially increases City's liabilities or financial obligations under this Lease shall additionally require the approval of the Board of Directors of SFMTA.

23.4 Authority

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

23.5 Parties and Their Agents; Approvals

If applicable, the word "Landlord" as used in this Lease shall include the plural as well as the singular. As used in this Lease, the term "Agents" when used with respect to either party shall include the agents, employees, officers, contractors and subcontractors of such party, and the term "Invitees" when used with respect to City shall include the clients, customers, invitees, guests, licensees, assignees or subtenants of City. All approvals, consents or other determinations permitted or required by City under this Lease, including but not limited to the exercise of any option granted to City, shall be made by or through City's Director of Property unless otherwise provided in this Lease, subject to any applicable limitations in the City's Charter.

23.6 Interpretation of Lease

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

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

23.7 Successors and Assigns

Subject to the provisions of Section 14 relating to assignment and subletting, the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of Landlord and City and, except as otherwise provided herein, their personal representatives and successors and assigns. There are no third-party beneficiaries to this Lease.

23.8 Brokers

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

23.9 Severability

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

23.10 Governing Law

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

23.11 Entire Agreement

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

23.12 Attorneys' Fees

In the event that either Landlord or City 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 non-prevailing party in such dispute, as the case may be, shall pay the prevailing party reasonable attorneys' and experts' fees and costs, and all court costs

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

23.13 Holding Over

Should City hold over without Landlord's consent, such holding over shall not be deemed to extend the Term or renew this Lease, but such tenancy thereafter shall continue as a month-to-month tenancy. Such tenancy shall be on all the terms and conditions set forth in this Lease and the rent payable by City during the period of such holding over shall be one hundred fifty percent (150%) of the monthly Base Rent in effect during the last month of the Term of this Lease.

All other payments shall continue under the terms of this Lease. In addition, City shall be liable for all damages incurred by Landlord as a result of such holding over. No holding over by City, whether with or without consent of Landlord, shall operate to extend this Lease except as otherwise expressly provided, and this Section shall not be construed as consent for City to retain possession of the Premises beyond such month to month holdover occupancy. For purposes of this Section, "possession of the Premises" shall continue until, among other things, City has delivered all keys to the Premises to Landlord, has fully vacated the Premises, and completely fulfilled all obligations required of it upon termination of the Lease as set forth in this Lease, including, without limitation, those concerning the condition and repair of the Premises.

23.14 Cumulative Remedies

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

23.15 Time of Essence

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

23.16 Survival of Indemnities

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

23.17 Signs

Subject to all Laws and at City's sole cost, City 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 such sign prior to its erection or posting and agrees that the approval thereof shall not be unreasonably withheld or delayed. Upon surrender or vacation of the Premises, City shall have removed all signs installed by City and repair, paint, and/or replace any damage to the building facia surface caused by such removal. City shall obtain all applicable governmental permits and approvals for sign and exterior treatments. All signs, decorations, advertising media, blinds, draperies and other window treatment or bars or other security installations visible from outside the Premises shall be subject to Landlord's approval, which shall not be unreasonably withheld, conditioned or delayed, and conform in all respects to Landlord's requirements.

23.18 Quiet Enjoyment and Title

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

23.19 Bankruptcy

Landlord represents and warrants to City that Landlord has neither filed nor been the subject of any filing of a petition under the federal bankruptcy law or any federal or state insolvency laws or laws for composition of indebtedness or for the reorganization of debtors, and, to the best of Landlord's knowledge, no such filing is threatened. Landlord and City agree that City's leasehold estate created hereby includes, without limitation, all rights to receive and enjoy all services, facilities and amenities of the Premises and the Building as provided herein, and that if due to Landlord's filing of a petition for bankruptcy relief any of such services, facilities or amenities are terminated, or materially limited or restricted on account of any such case or proceeding, City shall have the right to **(a)** contract directly with any third-party provider of such services, facilities or amenities to obtain the same, and **(b)** offset against the Base Rent or other charges payable hereunder any and all reasonable costs and expenses incurred by City in obtaining such services, facilities or amenities, provided no such actions violate any rules or requirements of the bankruptcy proceeding.

23.20 Transfer of Landlord's Interest

Landlord shall have the right to transfer its interest in the Premises or this Lease. In the event of any such transfer, Landlord shall be relieved, upon notice to City of the name and address of Landlord's successor, of any obligations accruing hereunder from and after the date of such transfer and upon delivering to City an express assumption by the transferee of all of Landlord's obligations hereunder. All obligations of Landlord under this Lease will be binding upon Landlord only during the period of its ownership of the Premises and not thereafter, except for any monetary obligations to City incurred by Landlord pursuant to this Lease incurred during such ownership, to the extent such monetary obligation is not fully discharged during such ownership, unless the new owner of the Premises expressly assumes such monetary obligations. The term "Landlord" in this Lease shall mean only the owner, for the time being of the Premises, and in the event of the transfer by such owner of its interest in the Premises, such owner shall thereupon be released and discharged from all obligations of Landlord thereafter accruing, (except for any monetary obligations to City incurred by Landlord pursuant to this Lease incurred during such ownership, to the extent such monetary obligation is not fully discharged during such ownership, unless the new owner of the Premises expressly assumes such monetary

obligations), but such obligations shall be binding during the Term upon each new owner of the Premises for the duration of such owner's ownership.

23.21 Non-Liability of City Officials, Employees and Agents of City and Trustees, Shareholders, and Officers of Landlord

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, for any Event of Default or for any amount which may become due to Landlord, its successors and assigns, or for any obligation of City under this Lease.

Any obligation or liability whatsoever of Landlord which may arise at any time under this Lease or any obligation or liability which may be incurred by it pursuant to any other instrument, transaction, or undertaking contemplated hereby shall not be personally binding upon, nor shall resort for the enforcement thereof be had to the property of, its trustees, directors, shareholders, officers, employees or agents, regardless of whether such obligation or liability is in the nature of contract, tort, or otherwise.

23.22 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.

23.23 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. During the Term, SFMTA staff will ensure the Lease payments are included in the operating budgets submitted for approval to the SFMTA Board of Directors, City's Mayor, and City's Board of Supervisors. As of the Lease Commencement Date, Section 8A.106 of City's Charter (i) requires SFMTA to submit a two-year budget to the City's Board of Supervisors and Mayor by May 1st of even numbered years, (ii) only permits the City's Board of Supervisors to reject the full submitted budget by 7/11ths vote no later than August 1 of such even numbered year, (iii) prohibits the City's Board of Supervisors from modifying the submitted SFMTA budget, including any line item changes, and (iv) if City's Board of Supervisors rejects a budget submitted by SFMTA, requires the City's Board of Supervisors to make additional interim appropriations to SFMTA until a budget is adopted. Tenant shall not use the provisions of this Section to circumvent the early termination right and payment set forth in Section 3.2 above. Landlord acknowledges and agrees that the City Charter may be amended and Sections of the City Charter changed by a majority of the voters at any time.

23.24 Prevailing Wages for Construction Work

Landlord agrees that any person performing labor in the construction of improvements to the Premises, if any, 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 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 improvements to the Premises. Notwithstanding anything to the contrary in the foregoing, the requirements of this Section shall not apply to Landlord's performance of its obligations under Section 4.4(c), Section 8.1 and Section 8.3.

23.25 Non Discrimination in City Contracts and Benefits Ordinance

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

(b) Subcontracts. Landlord shall 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 of this Lease, in any of its operations in San Francisco, on real property owned by City, or where the work is being performed for the City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) 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.

23.26 Tropical Hardwood and Virgin Redwood Ban

(a) Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, neither Landlord nor any of its contractors shall provide any items to City in the construction of any 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.

23.27 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. In the event public and/or private donations, grants or other funds 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 compliant bicycle storage in the Building garage or 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.

23.28 Environmental Design and Construction of City Buildings

Landlord acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 713 relating to the environmental design and construction of City buildings. Landlord hereby agrees that it shall comply with all applicable provisions of such code sections. Notwithstanding anything to the contrary in the foregoing, the requirements of this Section shall not apply to Landlord's performance of its obligations under Section 4.4(c), Section 8.1 and Section 8.3.

23.29 Counterparts

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

23.30 Effective Date

The date on which this Lease shall become effective (the "Effective Date") is the date upon which (a) the Board of Directors of City's SFMTA, in their sole and absolute discretion,

adopt a resolution approving this Lease in accordance with all applicable laws and (b) this Lease is duly executed by the parties hereto.

23.31 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.

23.32 Memorandum of Lease

On the Effective Date, Landlord and City shall execute two (2) originals of the memorandum of lease in the form attached hereto as Exhibit D (the "Memorandum of Lease"), and City shall cause a Memorandum of Lease to be recorded in the Official Records of the City and County of San Francisco and a Memorandum of Lease to be recorded in the Official Records of the County of San Mateo within two (2) business days thereafter. Upon termination of the Right of First Negotiation, City shall execute in recordable form such documents as reasonably requested by Landlord to establish that the Premises is no longer subject to the option.

23.33 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.

23.34 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.

23.35 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.

23.36 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" 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.

23.37 Cooperative Drafting

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

23.38 Force Majeure

Neither Landlord nor City shall be held responsible for delays in the performance of its obligations hereunder when caused by strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, governmental regulations, governmental controls, delay in issuance of permits, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of such party ("Force Majeure"). "Force Majeure" shall not include any performance delays resulting from a party's failure to timely pay its monetary obligations.

23.39 Default Rate of Interest

Any amount not paid by either party within five (5) business days after its due date in accordance with the terms of this Lease shall bear interest from such due date until paid in full at the lesser of the highest rate permitted by applicable law or ten percent (10%) per year. It is expressly the intent of Landlord and City at all times to comply with applicable law governing the maximum rate or amount of any interest payable on or in connection with this Lease. If applicable law is ever judicially interpreted so as to render usurious any interest called for under this Lease, or contracted for, charged, taken, reserved, or received with respect to this Lease, then it is Landlord's and City's express intent that all excess amounts theretofore collected by Landlord be credited on the applicable obligation (or, if the obligation has been or would thereby be paid in full, refunded to City), and the provisions of this Lease immediately shall be deemed reformed and the amounts thereafter collectible hereunder reduced, without the necessity of the

execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder.

23.40 Exhibits and Addenda

All exhibits and addenda attached hereto are hereby incorporated into this Lease and made a part hereof. In the event of any conflict between such exhibits or addenda and the terms of this Lease, such exhibits or addenda shall control.

23.41 Energy and Solar

City agrees and understands that Landlord shall have the right (provided that the exercise of Landlord's rights does not adversely affect City's use and occupancy of the Premises or subject City to additional costs), without City's consent, to place a solar electric generating system (a "Solar Utility System") on the roof of the Building at Landlord's sole cost or enter into a lease for the roof of the Building whereby such roof tenant shall have the right to install a Solar Utility System on the roof of the Building at the sole cost of Landlord or its roof tenant. If Landlord or Landlord's roof tenant place a Solar Utility System on the roof, Landlord shall (i) cause the Solar Utility System to remain in good condition and repair and the sole cost of Landlord or its roof tenant and (ii) promptly repair any damage to the Premises caused by the installation, maintenance, replacement or repair of the Solar Utility System at the sole cost of Landlord or its roof tenant, which costs shall not be an Operating Expense. Landlord shall not take, or permit its roof tenant to take, any action that would prevent the continued provision of electricity to the Premises by a public utility.

Upon receipt of written request from Landlord, City, at City's sole cost and expense, shall deliver to Landlord data regarding the electricity consumed in the operation of the Premises (the "Energy Data") for purposes of regulatory compliance, manual and automated benchmarking, energy management, building environmental performance labeling and other related purposes, including but not limited, to the Environmental Protection Agency's Energy Star rating system and other energy benchmarking systems. Landlord shall use commercially reasonable efforts to utilize automated data transmittal services offered by utility companies to access the Energy Data. Landlord shall not publicly disclose Energy Data without City's prior written consent. Landlord may, however, disclose Energy Data that has been modified, combined or aggregated in a manner such that the resulting data is not exclusively attributable to City. Within fifteen (15) days of Landlord's written request, City agrees to deliver to Landlord such information and/or documents as Landlord reasonably requires for Landlord to comply with California Public Resources Code Section 25402.10, or successor statute(s), and related California Code of Regulation, relating to commercial building energy ratings.

23.42 Waiver of Jury Trial

CITY AND LANDLORD WAIVE ANY RIGHT TO TRIAL BY JURY OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE, BETWEEN LANDLORD AND TENANT ARISING OUT OF THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT, OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS RELATED HERETO.

23.43 Two Renewal Options at Market

(a) Provided that as of the time of the giving of the First Extension Notice (defined as follows) and the Commencement Date of the First Extension Term (defined as follows), (i) City is the Tenant originally named herein, and (ii) no Event of Default exists or would exist but for the passage of time or the giving of notice, or both; then City shall have the right (the "First Extension Right") to extend the Term for an additional term of five (5) years (such additional term is hereinafter called the "First Extension Term") commencing on the day

following the original scheduled expiration date of the Term (hereinafter referred to as the "Commencement Date of the First Extension Term"). City shall give Landlord notice (hereinafter called the "First Extension Notice") of its election to extend the term of the Term (subject to approval of such election by the SFMTA Board of Directors and the BOS and City's Mayor) at least twelve (12) months, but not more than eighteen (18) months, prior to the original scheduled expiration date of the Term.

(b) Provided that as of the time of the giving of the Second Extension Notice (defined as follows) and the Commencement Date of the Second Extension Term (defined as follows), (i) City is the Tenant originally named herein, and (ii) no Event of Default exists or would exist but for the passage of time or the giving of notice, or both and provided City has exercised its First Extension Right; then City shall have the right (the "Second Extension Right") to extend the Term for an additional term of five (5) years (such additional term is hereinafter called the "Second Extension Term") commencing on the day following the expiration of the First Extension Term (hereinafter referred to as the "Commencement Date of the Second Extension Term"). City shall give Landlord notice (hereinafter called the "Second Extension Notice") of its election to extend the term of the Term at least twelve (12) months, but not more than eighteen (18) months, prior to the scheduled expiration date of the First Extension Term.

(c) The Base Rent payable by City to Landlord during the First Extension Term shall be the greater of (i) the Base Rent applicable to the last year of the initial Term and (ii) the then prevailing market rate for comparable space in the Premises and comparable buildings in the vicinity of the Premises, taking into account the location and size of the Premises and the premises covered by leases of such comparable space, the length of the renewal term and the term of such comparable leases, rental escalations, the credit of City, and the Excess Operating Costs payable hereunder.

The Base Rent shall not be reduced by reason of any costs or expenses saved by Landlord by reason of Landlord's not having to find a new tenant for the Premises (including, without limitation, brokerage commissions, costs of improvements, rent concessions or lost rental income during any vacancy period). Within thirty (30) days following City's exercise of the First Extension Right, Landlord shall notify City of Landlord's determination of the prevailing market rate for the Premises. If City disputes Landlord's determination of the prevailing market rate, City shall so notify Landlord within fourteen (14) days following Landlord's notice to City of the prevailing market rate and such dispute shall be resolved as set forth in subsection(e) below.

(d) The Base Rent payable by City to Landlord during the Second Extension Term shall be the greater of (i) the Base Rent applicable to the last year of the First Extension Term and (ii) the then prevailing market rate for comparable space in the Premises and comparable buildings in the vicinity of the Premises, taking into account the location and size of the Premises and the premises covered by leases of such comparable space, the length of the renewal term and the term of such comparable leases, rental escalations, the credit of City, and the Excess Operating Costs payable hereunder.

The Base Rent shall not be reduced by reason of any costs or expenses saved by Landlord by reason of Landlord's not having to find a new tenant for the Premises (including, without limitation, brokerage commissions, costs of improvements, rent concessions or lost rental income during any vacancy period). Within thirty (30) days following City's exercise of the First Extension Right, Landlord shall notify City of Landlord's determination of the prevailing market rate for the Premises. If City disputes Landlord's determination of the prevailing market rate, City shall so notify Landlord within fourteen (14) days following Landlord's notice to City of the prevailing market rate and such dispute shall be resolved as set forth in subsection(e) below.

(e) If City timely notifies Landlord of its disagreement of Landlord's determination of the prevailing market rate pursuant to subsection (c) or (d) above, then:

(1) Within thirty (30) days following Landlord's notice to City of the prevailing market rate, Landlord and City shall attempt in good faith to meet no less than two (2) times, at a mutually agreeable time and place, to attempt to resolve any such disagreement.

(2) If Landlord and City cannot reach agreement as to the prevailing market rate within this thirty (30) day period, they shall each select one appraiser to determine the prevailing market rate. Each such appraiser shall arrive at a determination of the prevailing market rate and submit his or her conclusions to Landlord and City within thirty (30) days of the expiration of the thirty (30) day consultation period described in (1) above.

(3) If only one appraisal is submitted within the requisite time period, it shall be deemed to be the prevailing market rate. If both appraisals are submitted within such time period, and if the two appraisals so submitted differ by less than five percent (5%) of the higher of the two, then the average of the two shall be the prevailing market rate. If the two appraisals differ by more than five percent (5%) of the higher of the two, then the two appraisers shall immediately select a third appraiser who will within thirty (30) days of his or her selection make a determination as to which of the two rates submitted by the original two appraisers is the closest to the prevailing market rate, and such rate shall be the prevailing marking rate for the extension term. The third appraiser must chose one or the other submitted rate and shall not average the two previous appraisals.

(4) All appraisers specified herein shall be "MAI" designated members of the Appraisal Institute with not less than five (5) years' experience appraising leases of commercial properties similar to the Premises in the San Francisco Bay Area. Landlord and City shall pay the cost of the appraiser selected by such party and one-half of the cost of the third appraiser plus one-half of any other costs incurred in the arbitration.

(5) If SFMTA's Director of Transportation does not approve of the prevailing market rate for the First Extension Term as determined by the appraisal procedure specified above, the SFMTA's Director of Transportation shall revoke City's exercise of the First Extension Right and the Lease shall terminate on its original expiration date; provided, however, such revocation must be made no later than six (6) months prior to the original scheduled expiration date of the Term, otherwise such revocation right shall be null and void with no further force or effect. If SFMTA's Director of Transportation does not approve of the prevailing market rate for the Second Extension Term as determined by the appraisal procedure specified above, the SFMTA's Director of Transportation shall revoke City's exercise of the Second Extension Right and the Lease shall terminate on the termination of the First Extension Term; provided, however, such revocation must be made no later than six (6) months prior to the expiration date of the First Extension Term, otherwise such revocation right shall be null and void with no further force or effect.

(f) The determination of Base Rent does not reduce the City's obligation to pay or reimburse Landlord for Excess Operating Expenses and other reimbursable items as set forth in the Lease, and City shall reimburse and pay Landlord as set forth in the Lease with respect to such Operating Expenses and other items with respect to the Premises during the First Extension Term and Second Extension Term without regard to any cap on such expenses set forth in the Lease.

(g) Except for the Base Rent as determined above, City's occupancy of the Premises during the First Extension Term and the Second Extension Term shall be on the same terms and conditions as are in effect immediately prior to the expiration of the initial Term or the First Extension Term; provided, however, that on the commencement of the First Extension Term, if any, City shall have no further right to any allowances, credits or abatements or any options to expand, contract, renew or extend the Lease other than the Second Extension Right, and on the commencement of the Second Extension Term, if any, City shall have no further right to any allowances, credits or abatements or any options to expand, contract, renew or extend the Lease.

(h) If City timely delivers the First Extension Notice, once City and Landlord determine the Base Rent for the First Extension Term, City shall request approval from the SFMTA Board of Directors and the BOS and City's Mayor to City's exercise of the First Extension Right. If either the SFMTA Board of Directors or the BOS and City's Mayor, each acting in its sole discretion, does not approve of such exercise of the First Extension Right, the First Extension Notice shall be automatically revoked and the Lease shall terminate on its original expiration date; provided, however, such revocation must be made no later than six (6) months prior to the original scheduled expiration date of the Term, otherwise such revocation right shall be null and void with no further force or effect. If City timely delivers the Second Extension Notice, once City and Landlord determine the Base Rent for the Second Extension Term, City shall request approval from the SFMTA Board of Directors and the BOS and City's Mayor to City's exercise of the Second Extension Right. If either the SFMTA Board of Directors or the BOS and City's Mayor, each acting in its sole discretion, does not approve of such exercise of the Second Extension Right, the Second Extension Notice shall be automatically revoked and the Lease shall terminate on the expiration of the First Extension Term; provided, however, such revocation must be made no later than six (6) months prior to the expiration date of the First Extension Term, otherwise such revocation right shall be null and void with no further force or effect.

(i) If City does not give the First Extension Notice within the period set forth in paragraph (a) above, City's right to extend the Term for the First Extension Term and the Second Extension Term shall automatically terminate. If City does not give the Second Extension Notice within the period set forth in paragraph (b) above, City's right to extend the Term for the Second Extension Term shall automatically terminate. Time is of the essence as to the giving of the First Extension Notice and Second Extension Notice.

(j) Except for Landlord's obligations under Section 8.1 and Section 8.3, Landlord shall have no obligation to refurbish or otherwise improve the Premises for the First Extension Term or the Second Extension Term. The Premises shall be tendered on the Commencement Date of the First Extension Term and the Commencement Date of the Second Extension Term in "as-is" condition.

(k) If the Lease is extended for the First Extension Term, then Landlord shall prepare and City shall execute a mutually-agreeable amendment to the Lease confirming the extension of the Term and the other provisions applicable thereto (the "First Amendment"). If the Lease is extended for the Second Extension Term, then Landlord shall prepare and City shall execute a mutually-agreeable amendment to the Lease confirming the extension of the Term and the other provisions applicable thereto (the "Second Amendment").

(l) If City exercises the First Extension Right pursuant to this Section, the definition of "Term" as used in the Lease, shall be construed to include, when practicable, the First Extension Term unless City's exercise of the First Extension Right is revoked pursuant to subsection (e) or subsection (h) above. If City exercises the Second Extension Right pursuant to this Section, the definition of "Term" as used in the Lease, shall be construed to include, when practicable, the Second Extension Term unless City's exercise of the Second Extension Right is revoked pursuant to subsection (e) or subsection (h) above.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, LANDLORD ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY HERETO UNLESS AND UNTIL THE BOARD OF DIRECTORS OF CITY'S SFMTA, CITY'S BOARD OF SUPERVISORS AND CITY'S MAYOR SHALL HAVE DULY ADOPTED RESOLUTIONS APPROVING THIS LEASE 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 LEASE SHALL BE NULL AND VOID UNLESS THE BOARD OF DIRECTORS

OF CITY'S SFMTA, CITY'S BOARD OF SUPERVISORS, AND CITY'S MAYOR APPROVE THIS LEASE, IN ITS 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.

[No further text this page.]

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

LANDLORD:

PROLOGIS, L.P.,
a Delaware limited partnership

By: Prologis, Inc.
Its: General Partner

By: _____
Its: President, NW Region

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, acting by and through its
Municipal Transportation Agency

By: _____
Edward D. Reiskin
Director of Transportation
San Francisco Municipal Transportation Agency

APPROVED BY:

San Francisco Municipal Transportation Agency
Board of Directors
Resolution No: 12-109
Adopted: August 21, 2012
Attest: _____
Secretary, SFMTA Board of Directors

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Deputy City Attorney

ADDENDUM 1

BASE RENT

ATTACHED TO AND A PART OF THE LEASE AGREEMENT
DATED _____, 2012, BETWEEN
PROLOGIS, L.P.
and
CITY AND COUNTY OF SAN FRANCISCO

Base Rent shall equal the following amounts for the respective periods set forth below:

Year	Monthly Base Rent
1	$ 204,136.85
2	$ 210,260.96
3	$ 216,568.78
4	$ 223,065.85
5	$ 229,757.82
6	$ 245,840.87
7	$ 253,216.10
8	$ 260,812.58
9	$ 268,636.96
10	$ 276,696.07
11	$ 296,064.79
12	$ 304,946.73
13	$ 314,095.14
14	$ 323,517.99
15	$ 333,223.53
16	$ 356,549.18

17	$ 367,245.65
18	$ 378,263.02
19	$ 389,610.91
20	$ 401,299.24

ADDENDUM 2

CONSTRUCTION

ATTACHED TO AND A PART OF THE LEASE AGREEMENT
DATED _____, 2012, BETWEEN
PROLOGIS, L.P.
and
CITY AND COUNTY OF SAN FRANCISCO

(a) Landlord agrees to furnish or perform those items of construction and those improvements and construction drawings described and shown on the attached Schedule 1 (the "**Phase I Landlord TIs**") in compliance with final plans, specifications and working drawings (the "**Final Plans**") and construction contracts (the "**Construction Contracts**") approved by City and consistent with the finish standards attached hereto as Schedule 2 (the "**Finish Standards**"). The Final Plans shall be prepared by Landlord's licensed architect or space planner reasonably approved by City (the "**Architect**") and Landlord's licensed engineer reasonably approved by City (the "**Engineer**") and shall show, without limitation, the following:

i. location of any demolition and all partitions;
ii. location and type of all doors, with door hardware specifications;
iii. location and type of all electrical outlets, switches, telephone outlets and lights;
iv. requirements for special air conditioning or ventilation for the Premises;
v. location of all heating and air conditioning ducts;
vi. location, type and color of floor and wall coverings;
vii. ceiling plans including light fixtures;
viii. location of sprinklers;
ix. location, type and color of paint or finishing;
x. location and type of plumbing;
xi. location and type of kitchen equipment;
xiii. disabled accessibility standards, including any improvements to lobbies, corridors, drinking fountains, telephone banks, elevators, elevator vestibules, stairs, stair vestibules and restrooms on all floors of the Building;
xiii. critical dimensions for construction; and
xiv. other interior improvement work required for the furnishing or installation of the Phase I Landlord TIs.

(b) City shall respond promptly to any inquiries by Landlord during the development of the Final Plans and, to the extent requested by Landlord, shall cooperate with Landlord and Landlord's architect in developing the Final Plans. When Landlord requests City to specify details or layouts, City shall promptly specify same within ten (10) business days thereafter so as not to delay completion of the Final Plans or Substantial Completion of the Phase I Landlord TIs. Landlord shall submit the Final Plans to City for its approval and City shall advise Landlord within ten (10) business days thereafter, of its approval or disapproval of such Final Plans. City's right to disapprove the proposed Final Plans ("**Objection**") shall be limited to material inconsistencies with the drawings shown on Schedule 1, this Addendum 2, and any change orders then entered into, and noncompliance with or violation of applicable Laws. If City shall not make an Objection to the proposed Final Plans or any element or aspect thereof within the five (5) business day period set forth above, then such Final Plans or the portions not objected to by City shall be deemed approved.

(c) Landlord shall pay for the costs and expenses to furnish or install the Phase I Landlord TIs (collectively, the "**TI Costs**") up to a maximum amount of $800,000.00 (the "**Allowance**"). The Allowance shall only be available for City's use towards the cost of the Phase I Landlord

TIs until 180 days from the Lease Commencement Date, and after such date City shall have no further rights to use the Allowance. If Landlord reasonably determines the TI Costs will exceed the Allowance, Landlord shall notify City and City shall have the right to elect, at its sole option, to pay for the TI Costs that exceed the Allowance. Such election shall be made in writing within five (5) business days, and City's failure to make such election within such five (5) business day period shall be deemed to be City's election not to pay for any such excess TI Costs. If City elects to pay any such excess TI Costs, the amount of excess TI Costs that City elects to pay shall be the "**Excess Costs**"). The Excess Costs, if any, shall be paid by City before Landlord begins construction of the Phase I Landlord TIs and a final adjusting payment based upon the actual Phase I Landlord TI Costs shall be made when the Phase I Landlord TIs are complete. If City does not elect to pay the Excess Costs, then Landlord shall reduce the scope of the Phase I Landlord TIs so that the TI Costs do not exceed the Allowance.

TI Costs eligible to be reimbursed out of the Allowance shall include, without limitation, (i) all costs of preliminary space planning, interior design, finish schedule plans and specifications and final architectural and engineering plans and specifications (including as-built drawings) for the Phase I Landlord TIs, and other costs associated with completion of said plans or the Final Plans; (ii) all costs of obtaining building permits and other necessary authorizations and approvals for the Phase I Landlord TIs from the City of Daly City, California, and other applicable jurisdictions; (iii) all direct and indirect costs of procuring, constructing and installing the Phase I Landlord TIs, including, without limitation, the construction fee for overhead and profit and all labor and materials constituting the Phase I Landlord TIs; (iv) all fees payable to any third party construction manager and/or general contractors selected by Landlord to perform the Phase I Landlord TIs, provided City has approved of such selected construction manager, which approval shall not be unreasonably withheld; (v) all fees payable to the Architect and Engineer to prepare the Final Plans or to redesign the Final Plans to accommodate City's request for such change anytime after City's approval of the Final Drawings; and (vi) all work needed to cause the Premises, including the improvements and Phase I Landlord TIs, to (A) comply with ADA (including access, restrooms, and interior and exterior improvements that meet ADA access requirements), and (B) be in a safe condition that complies with all applicable building codes.

(d) If City shall desire any changes to the Final Plans, City shall so advise Landlord in writing and Landlord shall determine whether such changes can be made in a reasonable and feasible manner. Any and all costs of reviewing any requested changes, and any and all costs of making any changes to the Phase I Landlord TIs which City may request and which Landlord may agree to shall be at City's sole cost and expense and shall be paid to Landlord upon demand and before execution of the change order.

(e) Prior to constructing the Phase I Landlord TIs, Landlord shall prepare a detailed construction budget that is reasonably acceptable to City, which shall be show the costs to be included in the Allowance and any other Excess Costs to be paid by City hereunder as line items and in cost categories. If the Phase I Landlord TIs cannot be completed in strict conformity with the most recently approved construction budget, Landlord shall immediately submit to City for its approval a revised construction budget and shall identify to City changes in line items and the reasons for the changes. If further changes are required, Landlord shall seek City's reasonable approval, following the same procedures. No costs shall be included in the Allowance, and City shall not be obligated to pay any costs in excess of the Allowance and any Excess Costs previously approved by City, unless and until it approves the construction budget and any revisions thereto. City shall have the right to approve or disapprove any construction budget or revisions in its reasonable judgment. No such approval or disapproval shall be unreasonably delayed and must be approved or rejected within five (5) days of Landlord's submission to City. Failure of City to approve the budget beyond such five (5) day period shall be deemed to be a City Delay. The most recently approved construction budget shall supersede all previously approved budgets.

Landlord shall evidence the TI Costs by commercially-reasonable invoices and paid receipts. Both prior to and following the exhaustion of the Allowance, Landlord shall provide City with copies of (i) all invoices received by Landlord from the Contractor in connection with the Phase I Landlord TIs and (ii) satisfactory evidence of payment of such invoices, including unconditional lien waivers, or if such invoices have not been paid, conditional lien waivers, all such lien waivers being in the form prescribed by California Civil Code, and (iii) if requested in writing by City, Landlord shall also provide City with such additional supporting data substantiating the Contractor's right to payment as City may require, provided such request is commercially-reasonable, such as copies of requisitions from subcontractors and material suppliers.

(f) Following City's approval of the Final Plans and the construction budget, Landlord shall proceed with and complete the construction of the Phase I Landlord TIs. 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 Phase I Landlord TIs will be substantially completed in accordance with the approved Final Plans, Construction Documents and the provisions hereof. As soon as such improvements have been Substantially Completed (defined as follows), Landlord shall notify City in writing of the date that the Phase I Landlord TIs were Substantially Completed, and City or its representatives shall be permitted to accompany Landlord or its Architect on an inspection of the Premises on such date or other mutually agreeable date soon thereafter. The Phase I Landlord TIs shall be deemed substantially completed ("**Substantially Completed**" or "**Substantially Complete**") when, in the opinion of the Architect, the Phase I Landlord TIs are substantially completed except for punch list items which do not prevent in any material way the use of the Phase I Landlord TIs for the purposes for which they were intended; provided such opinion is given in conjunction with a certificate of occupancy or a temporary certificate of occupancy or a permit inspection card or other documentation from the City of Daly City indicating that Premises are legal to occupy. Tenant's occupancy for the conduct of its normal business operations shall also cause the Phase I Landlord TIs to be deemed Substantially Completed. In the event of any City Delays (defined in subsection(g) below) that delays construction of the Phase I Landlord TIs, the date of Substantial Completion shall be deemed to be the date that, in the commercially reasonable opinion of the Architect, Substantial Completion would have occurred if such City Delays had not taken place.

After the date the Phase I Landlord TIs are Substantially Complete, City shall, upon demand, execute and deliver to Landlord a letter of acceptance of delivery of the Phase I Landlord TIs subject to satisfactory and timely completion of any remaining punch list items, which Landlord shall diligently pursue to completion. City shall have the right to present to Landlord within three (3) days after City's initial walk-through inspection of the Premises, a written "punchlist" consisting of any items that have not been finished in accordance with the Construction Documents and the terms of this Addendum 2. Landlord shall promptly complete all defective or incomplete items identified in such punchlist, and in any event within forty-five (45) days after the delivery of such list. City's failure to include any item on such list shall not alter Landlord's responsibility hereunder to complete all Phase I Landlord TIs in accordance with the Construction Documents and the provisions hereof.

(g) Subject to Force Majeure, City shall be responsible for any delay in the construction of the Phase I Landlord TIs to the extent due directly from any of the following (collectively, "**City Delays**"): (i) a delay in granting its reasonable approval of plans and specifications (beyond the period granted therefor), (ii) City change orders to the Construction Documents after initial approval thereof by City, provided such delay shall be limited to the number of days consented to by City, (iii) City's interference with the construction of the Phase I Landlord TIs, and (iv) City's request for long lead items, provided that Landlord notifies City that such requested item will be a long lead item prior to completion of the Final Plans. Any such City Delays shall not

cause a deferral of the Rent Commencement Date beyond what it otherwise would have been but for the City Delays.

(h) The failure of City to take possession of or to occupy the Premises after the date the date the Phase I Landlord TIs are Substantially Complete shall not serve to relieve City of obligations arising on the Lease Commencement Date or delay the payment of Rent by City. Subject to applicable ordinances and building codes governing City's right to occupy or perform in the Premises, City shall be allowed to install its tenant improvements, machinery, equipment, fixtures, or other property on the Premises during the final stages of completion of construction provided that City does not thereby interfere with the completion of construction or cause any labor dispute as a result of such installations, and provided further that City does hereby agree to indemnify, defend, and hold Landlord harmless from any loss or damage to such property, and all liability, loss, or damage arising from any injury to the Project or the property of Landlord, its contractors, subcontractors, or materialmen, and any death or personal injury to any person or persons arising out of such installations, unless any such loss, damage, liability, death, or personal injury was caused by Landlord's negligence. Any such occupancy or performance in the Premises shall be in accordance with the provisions governing Alterations in the Lease, and shall be subject to City providing to Landlord satisfactory evidence of insurance for personal injury and property damage related to such installations and satisfactory payment arrangements with respect to installations permitted hereunder. Delay in putting City in possession of the Premises shall not serve to extend the term of this Lease or to make Landlord liable for any damages arising therefrom.

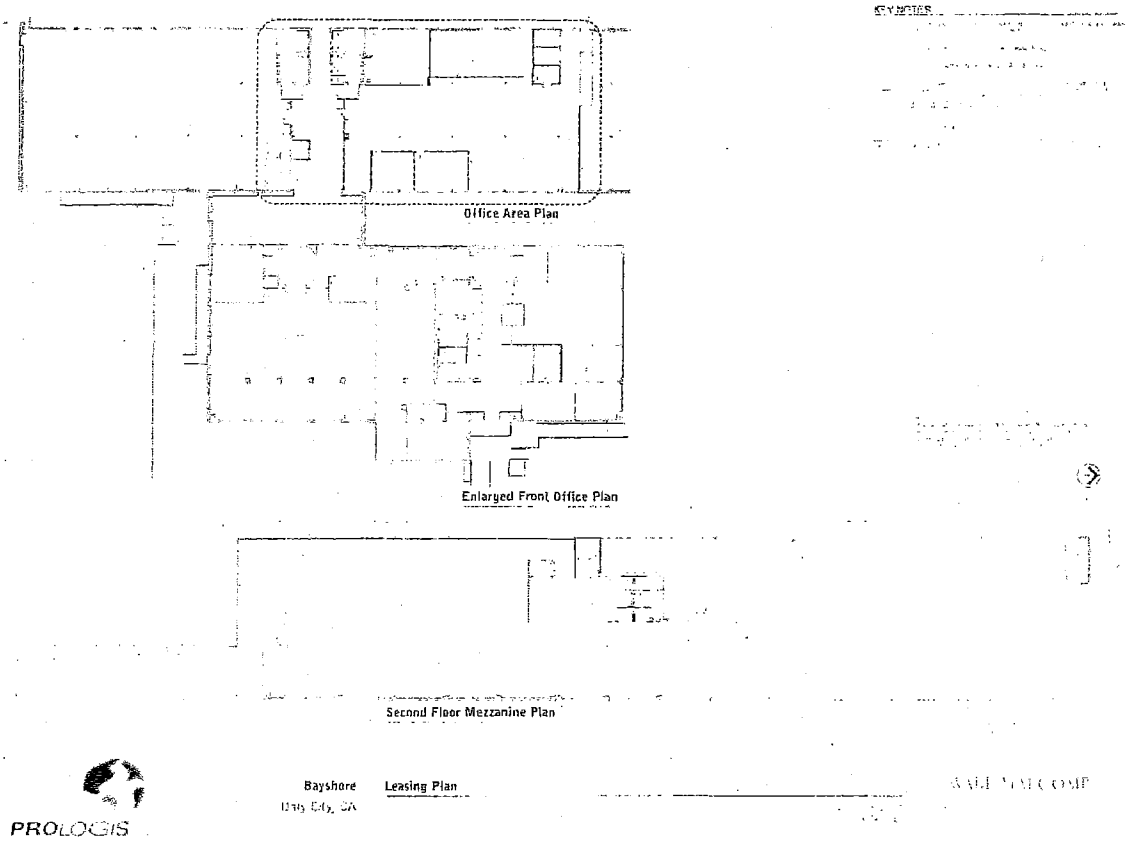
(i) Additionally, upon City's written request prior to the third (3rd) anniversary of the Rent Commencement Date, Landlord agrees to furnish or perform items of construction and improvements to the Premises mutually agreed upon by Landlord and City (the "**Phase II Landlord TIs**"), subject to the City reimbursement obligation set forth in this subsection, unless City elects to pay for the costs of such Phase II Landlord TIs at the time they are performed. If City elects to have Landlord initially pay for the Phase II Landlord TIs, Landlord shall initially pay for the Phase II Landlord TIs up to a maximum amount of $1,000,000.00 (the "**Phase II Allowance**"), and in no event shall Landlord have any obligation to pay for any costs of the Phase II Landlord TIs in excess of such amount. The Phase II Allowance shall only be available for request by City until the third (3rd) anniversary of the Rent Commencement Date, and after such date City shall have no further rights to use the Phase II Allowance. If City timely requests the Phase II Landlord TIs and the cost of the Phase II Landlord TIs would exceed the Phase II Allowance, City shall have the right to elect to pay for excess cost. If City does not elect to pay such excess cost, then Landlord shall reduce the scope of the Phase II Landlord TIs so that the costs do not exceed the Phase II Allowance. The amount of Phase II Allowance used to pay the Phase II Landlord TIs shall repaid in full to Landlord, together with interest at nine percent (9%) per annum, in equal monthly installments over the first 120 months of the Term that immediately follows the completion of the Phase II Landlord TIs. If City elects to pay for any or all of such excess cost in writing (the "**City Phase II Costs**"), City shall deliver an amount equal to the City Phase II Costs to Landlord before Landlord begins constructing the Phase II Landlord TIs. All Phase II Landlord TIs shall be performed in compliance with specifications, final drawings and construction contracts, and by engineers, architects and contractors, as applicable, reasonably approved by City. Prior to constructing any of the Phase II Landlord TIs, Landlord shall prepare a construction budget that is approved by City and shows, by line item and cost categories, the items to be covered by the Phase II Allowance and the items to be covered by the City Phase II Costs. Landlord shall not modify such budget without City's prior written consent. Upon Substantial Completion of the Phase II Landlord TIs, the parties shall make an adjusting payment between them (to the extent the actual City Phase II Costs were less than anticipated) and execute an amendment to the Lease to memorialize the amortized payments of the Phase II Allowance to be made by City for the following 120 months of the Term.

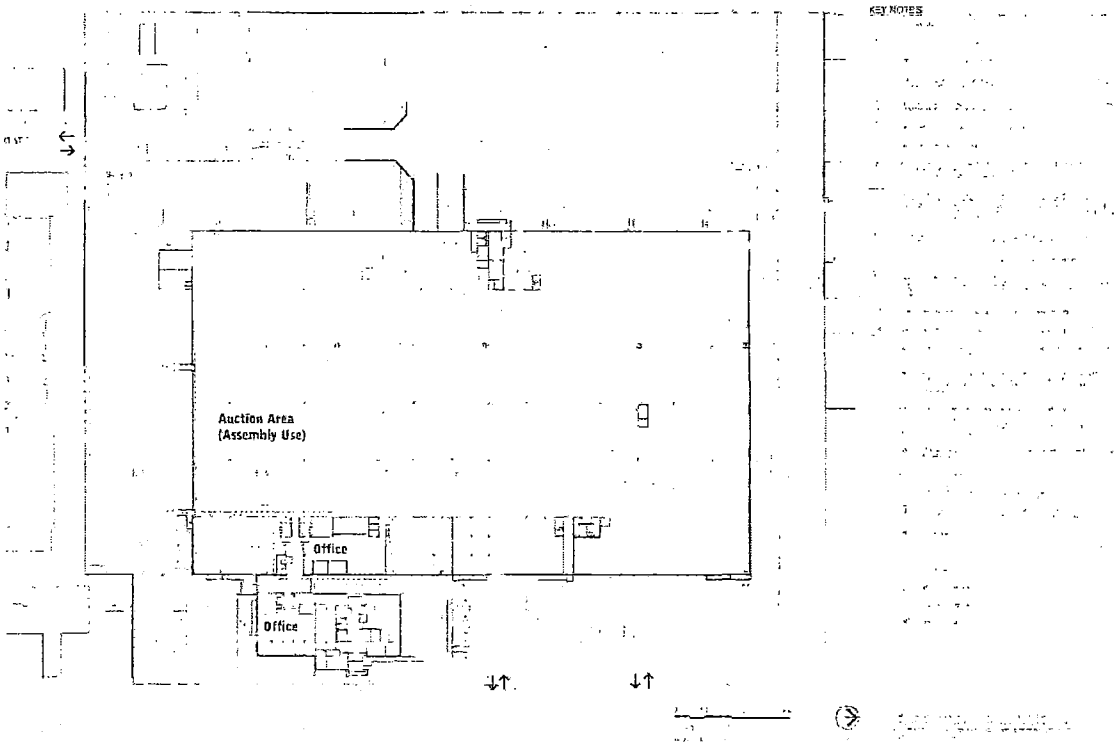
(j) Except as may be otherwise specifically provided herein, any notice given under this Addendum 2 shall be in writing and given in compliance with the requirements specified in Section 23.1 of the Lease. Landlord shall promptly notify City in writing of (i) any written communication that Landlord may receive from any governmental, judicial or legal authority, giving notice of any claim or assertion that the Premises, Building or Leasehold Improvements fail in any respect to comply with applicable laws, rules and regulations; (ii) any known material adverse change in the physical condition of the Premises, including, without limitation, any damage suffered as a result of earthquakes; and (iii) any known default by the Contractor or any subcontractor or material supplier, or any known material adverse change in the financial condition or business operations of any of them.

(k) Landlord acknowledges that the requirements of Section 23.24, Section 23.25 and Section 23.28 shall apply to the performance of the Phase I Landlord TIs and the Phase II Landlord TIs, unless City otherwise delivers written notice to the contrary before the commencement of construction of the Phase I Landlord TIs or the commencement of construction of the Phase II Landlord TIs, as applicable.

SCHEDULE 1
Scope of Phase I Landlord TIs

ATTACHED TO AND A PART OF THE LEASE AGREEMENT
DATED _____, 2012, BETWEEN
PROLOGIS, L.P.,
and
CITY AND COUNTY OF SAN FRANCISCO





PROLOGIS

Bayshore Leasing Plan

SCHEDULE 2
Finish Standards

ATTACHED TO AND A PART OF THE LEASE AGREEMENT
DATED _____, 2012, BETWEEN
PROLOGIS, L.P.
and
CITY AND COUNTY OF SAN FRANCISCO

DIVISION 1 GENERAL REQUIREMENTS

1.1 CLOSE-OUT DOCUMENTS: Provide O & M manuals including all MSDSs and "as-built" drawings for all architectural, structural, plumbing, electrical, HVAC and fire protection work on two (2) CD's in pdf format. Provide one (1) hard copy and one electronic copy in pdf format of the stamped permit set of drawings. The value of the close-out documents shall be 10% of the value of the respective work. Provide copy of the job card as well as a copy of the Certification of Occupancy or Certification of Final Completion.

DIVISION 6 WOOD AND PLASTICS

6.1 CABINETS: Furnish and install a coffee bar and / or lunch room base cabinet. The base cabinet(s) shall be plastic laminate by Wilsonart or approved equal in the manufacturer's standard color on all exposed horizontal and vertical surfaces, including open cabinet interiors, unless otherwise noted. Semi-exposed cabinet interiors and shelves shall be white melamine with .5mm PVC edge binding. Drawers shall be Grass 6036 Zyrgon System slides or approved equal. The hardware shall be 96mm wire pulls, 125deg. Blum hinges or approved equal. The cabinet(s) shall be 6'-0" long minimum and 34" high. Each cabinet shall have one row of drawers over doors. The maximum depth for cabinet and countertop should be 24".

6.2 COUNTERTOPS: The countertops shall be plastic laminate by Wilsonart or approved equal. The coffee bar tops shall have a 2" bull nosed front edge and top edge with a 4" splash and a radiused inside and outside corner at the backsplash.

6.3 MILLWORK QUALITY: Architectural millwork and cabinetry shall be of a construction quality equal to that of the Architectural Woodwork Institute's (AWI) custom grade for flush overlay construction. MDF products shall be made with binder containing no urea-formaldehyde. Wood glues used for fastening shall have a VOC content of 30 g/L or less when calculated according to 40 CFR 59, Subpart D (EPA Method 24). Multipurpose construction adhesives shall have a VOC content of 70 g/L or less when calculated according to 40 CFR 59, Subpart D (EPA Method 24). Contact adhesives shall have a VOC content of 250 g/L or less when calculated according to 40 CFR 59, Subpart D (EPA Method 24)

DIVISION 8 DOORS AND WINDOWS

8.1 INTERIOR DOORS AND FRAMES: Furnish and install 3'-0" x 7'-0" x 1-3/4", solid core, birch, B-3 stain prefinished doors in "Timely" prefinished black steel frames (clear anodized aluminum frames by ACI, Eclipse or approved equal in the San Francisco Bay Area), with 1-1/2" pairs of butts per door U.O.N. (All office door shall receive a 2'-0" sidelight in the San Francisco Bay and Seattle Areas). Doors receiving closers shall receive ball-bearing butts. Doors and frames shall be 20 minutes rated where required. When working in an existing tenant space, the new doors and frames shall match the existing doors and frames U.O.N.

8.2 INTERIOR DOOR HARDWARE: Furnish and install Schlage AL10S Saturn passage hardware on all doors except single accommodation toilet rooms which shall receive Schlage AL40S privacy locks. The door hardware shall have a brushed chrome 626 finish U.O.N. Furnish and install weather-stripping, closers, and drop seals at doors between conditioned and non-conditioned areas. Furnish and install closers on all toilet and shower room doors. The closer shall be installed on the toilet room or warehouse side of the door. When working in an existing tenant space, the new door hardware shall match the existing door hardware U.O.N.

8.3 DOOR SIGNAGE: Include all signage per code (Handicap, Exit, etc.)

8.4 OVERHEAD DOORS: Match the existing building overhead doors and door insulation

8.5 INTERIOR WINDOW FRAMES/GLASS: Interior windows shall be 1/4" clear tempered glass set in black "Timely" frames (or anodized aluminum frames in the S.F. Bay Area) to match the interior door frames. Glazing height shall match door height, UON; width shall be as indicated on plans.

8.6 MIRRORS: Furnish and install 4' high x 1/4" thick plate glass mirrors with two coats silver and electroplated copper backing, and wiped edges at all lavatories. The mirror shall be the length of the lavatory top set directly on top of the splash and extending to the underside of the light shelf. If wall mounted lavatories are used, the mirror shall be a Bobrick 2436.

8.7 FALSE MULLIONS: Where interior drywall partitions meet the exterior window wall, furnish and install aluminum "false" mullions finished to match the existing exterior storefront.

DIVISION 9 FINISHES

9.1 FIRE RATED WALLS: Metal studs with one layer of 5/8" type "X" gypsum board on each side from the floor to the roof deck. The stud size and spacing shall be per the stud manufacturer's tables and local code requirements. Install fire safing between the gypsum board and roof deck U.O.N. Penetrations at one hour walls

shall be fire safed or caulked.

9.2 FULL HEIGHT DRYWALL PARTITIONS (including tenant demising walls): Metal studs with one layer of 5/8" type "X" gypsum board on each side from the floor to the roof deck. The stud size and spacing shall be per the stud manufacturer's tables and local code requirements. Drywall installed above an acoustical ceiling shall be firetaped and screws spotted

9.3 OFFICE DRYWALL PARTITIONS: All partitions in areas with ceilings shall be undergrid 3-5/8" or 3-1/2" x 25 GA. metal studs at 24" o.c. with 5/8" fire code type "X" gypsum board on each side. The ceiling grid shall be installed first with walls built to the grid. The intersection of the wall at the grid shall be snug and flush. Install "L" metal trim at the top of the wall. Toilet room perimeter walls shall be built to 6" above grid.

9.4 WAREHOUSE GYPSUM BOARD WALL FINISH: All drywall in the warehouse shall be fire taped only unless otherwise noted. Spot screws in firetaped areas

9.5 END CAPS: Where a partition meets a window mullion, furnish and install an aluminum "wall end cap" finished to match the storefront U.O.N.

9.6 ACOUSTIC CEILING TILE (Hallway Only): Furnish and install 24" x 48" x 5/8" USG Omni non-directional fissured tile or equal, installed at 9'-0" A.F.F., U.O.N. in all office areas except toilet and shower rooms.

9.7 ACOUSTIC CEILING TILE SUSPENSION SYSTEM (Hallway Only): Furnish and install Class "A" 15/16" exposed "T" grid system, intermediate duty (heavy duty in seismic design category "D" areas) with $1^{1/2}$" main tee, $1^{1/2}$" cross tee, and 7/8" x 7/8" wall mold as manufactured by Donn or equal. Fire rated grid and tile shall be used where code requires. The grid color shall be white to match the tile exactly.

9.8 CARPET: Carpeting shall be Designweave, Shaw (such as Lynchburg 26 series) or approved equal, loop graphic, solution dyed 100% nylon, 26 oz. per square yard average yarn weight minimum, 1/10th gauge, color to be selected from manufacturer's standard colors U.O.N. Carpet shall be direct glue down U.O.N.

9.9 VINYL COMPOSITION TILE: Furnish and install 1/8" gauge, standard grade, VCT as manufactured by Tarkett or Armstrong. Install VCT in server rooms and IT closets. No VCT shall be installed in toilet rooms.

9.10 RUBBER BASE: All areas receiving floor covering and new walls except the toilet rooms shall have 4" high topset rubber base as manufactured by Burke, Roppe, or Tarkett in a standard color. Install the rubber base on a continuously roll, not sectional.

9.11 SHEET VINYL: New toilet rooms shall receive sheet vinyl flooring with a 6" integral flashed cove base with brushed aluminum trim on the top edge. All joints

shall be heat welded and receive seam sealer. The sheet vinyl shall be Armstrong "Suffield", "Best of Both Worlds" or "Seagate" installed in all new toilet rooms.

9.12 TRANSITION STRIPS: Furnish and install black vinyl transition strips at all changes in flooring material U.O.N.

9.13 CONCRETE FLOOR SEALER: All concrete floor patches shall be resealed to match the existing concrete floor sealer / hardener. Warehouse will be sealed with ACRI-SHEEN acrylic concrete sealer, containing 30% solids, manufactured by Paul M. Wolff Co. OR equivalent.

9.14 PAINT: On walls receiving a skip trowelled finish, apply one (1) coat of interior flat latex paint, Sherwin Williams or equal in a standard light color. Lunch / break rooms, toilet and shower rooms and the wall at the coffee bar shall receive one (1) coat of latex semi-gloss enamel over one (1) coat of PVA sealer. Smooth finished walls shall receive two coats of eggshell latex paint. Paint the warehouse demising wall(s) and warehouse side of the office walls one (1) coat of interior flat latex paint.

9.15 All adhesives to be low emitting.

DIVISION 12 FURNISHINGS

12.1 BLINDS: All exterior windows, including exterior warehouse windows and windows above any acoustic ceilings, shall receive mini-blinds by Bali "Classic" or approved equal, with a valance, in a color to match the storefront aluminum color U.O.N. The blinds shall be "inside mounted" (between the vertical window mullions) flush with the inside face of the mullion. Storefront doors and any interior windows shall not receive blinds. Install blinds at all door sidelights.

DIVISION 15 PLUMBING

15.1.1 DESIGN BUILD: Unless engineered plumbing system drawings are included in the bid documents, the plumbing work shall be performed on a design-build basis. The design-build plumbing contractor shall furnish and install a complete and operative plumbing system to meet all local and state codes.

15.1.2 PLANS: Provide plumbing plans for architect's and owner's review and approval.

15.1.3 SEWER LINES: Sewer, soil and waste lines within the building below the finished floor elevation shall be schedule 40 ABS plastic or schedule 40 PVC plastic pipe. Sewer, soil and waste lines within the building above the finished floor elevation shall be standard weight cast iron. ABS piping may be used above the finished floor if permitted by code and approved by the owner.

15.1.4 GAS LINES: All gas lines shall be run under the roof above the bottom cord of the trusses perpendicular or parallel to the existing roof structure. All new and existing gas lines within a single tenant space shall be connected to a separate gas meter.

15.1.5 PIPE MATERIAL: All pipe materials shall be subject to the requirements of the City and/or governing body. All domestic water, condensate and smitty pan drain lines must be copper.

15.1.6 PLUMBING FIXTURES AND TRIM:
Coffee bar / Lunch Room sink: Elkay, model GECR 1918, stainless steel, with a Delta #100 faucet. If the Lunch Room base cabinet is 8'-0" or longer, use an Elkay model GECR 2521. Furnish and install a Handy-Shield Drain Cover #3011 White by Plumberex Specialty Products under each sink.
Water heater: The water heater shall be A.O. Smith, State or approved equal sized to meet the demand. It shall be located on the warehouse floor in a smitty pan draining into a hub drain with a trap primer. The location shall be as located by the architect or approved by the owner. All plumbing connections shall be made with dielectric unions.

15.1.7 CONDENSATE DRAINS: Furnish and install copper condensate drainage lines with proper venting for all HVAC equipment. The lines shall be no smaller than 3/4" diameter and shall be located under the roof unless prohibited by code. PVC condensate line may not be used.

15.1.8 SHUT-OFF VALVE: Furnish and install a water line shut-off valve for the Restrooms in the toilet room wall, not above the ceiling, with an 8" x 8" stainless steel access panel. Provide a typed label "Main Water Valve" on the access panel.

15.1.9 MAIN WATER LINE: If a main domestic water line is not existing above the tenant space, furnish and install a 2" diameter copper water line at the roof installed above the bottom cord of the trusses, properly braced to avoid movement. At each future tenant space that the line crosses, install a 2" "T" with 2" gate valve (one valve per storefront door). Extend the water line through the tenant demising wall into the "down stream" adjacent tenant space with a 2" diameter gate valve. Furnish and install a 2" pressure reducing valve with an access panel at the water service entrance when required.

15.1.11 CLEAN-OUTS: Furnish and install a brass floor clean-out cover at the proper finished elevation as required. If the clean-out is in the warehouse area, furnish and install a cast iron heavy duty traffic rated cover.

DIVISION 15 FIRE PROTECTION

15.2.1 DESIGN BUILD: The fire protection work shall be performed on a design-build basis. The design-build fire protection contractor shall furnish and install all modifications to the existing fire sprinkler system to meet all applicable local and state fire code requirements. Sprinkler heads shall be dropped into all suspended ceiling areas. Upgrade of existing system shall conform with a class IV occupancy. In buildings with ESFR systems, maintain the necessary clearances from all obstructions.

15.2.2 PIPE MATERIAL: All fire sprinkler piping shall be standard schedule 10 for 6" piping, and schedule 7 for 4" and 2 ½" piping U.O.N. Schedule 5 pipe may not be

used.

15.2.3 SPRINKLER HEADS: The fire sprinkler heads in areas with ceilings shall be chrome, semi-recessed, with white escutcheons. When "second look" acoustical ceiling tiles are used, sprinkler heads shall be centered on the half tile.

15.2.4 HYDRAULIC TESTING: The contractor shall include the cost of any required hydraulic testing of the fire sprinkler system.

15.2.5 FIRE EXTINGUISHERS: Fire extinguishers shall be furnished and installed per city fire code. Extinguishers may be wall hung.

DIVISION 15 HVAC

15.3.10 DUCTING: All ducting shall be galvanized spiral, or rectangular insulated with 1-1/2" wrap and vapor barrier or duct board. Any exposed duct in a conditioned warehouse area must be galvanized spiral sheet metal. Final connections to the registers shall be made with a minimum 5' soft flex duct for sound attenuation. All plenums shall be fabricated from insulated galvanized sheet metal of appropriate gauge for low pressure use. Plenums shall extend from the unit to the level of the horizontal branches. 15.3.12 GRILLES: All conditioned areas shall have a supply register and a ducted return register. Transfer grills are not permitted in the office area. Supply and return air registers shall be white baked enamel 2'x2' with a perforated face, flush mounted. Supply air registers shall have a 4-way blow.

DIVISION 16 ELECTRICAL

16.1 DESIGN BUILD: Unless engineered electrical system drawings are included in the bid documents, the electrical work shall be performed on a design-build basis. The design-build electrical contractor shall furnish and install a complete and operative electrical system to meet all local and state codes.

16.2 PLANS: Provide electrical plans for architect's and owner's review and approval.

16.3 ENERGY CALCS: Provide energy compliance code lighting calculations if required.

16.6 OFFICE LIGHTING: Furnish and install indirect fixtures in the (N) office areas by mounting an 8' Lithonia Industrial light fixture mounted upside down on a "deep" uni-strut suspended with 3/8" "All-thread" rods. Mounted at the ceiling with expansion anchors OR anchors appropriate for existing roof deck conditions. ., 50 foot candles minimum at 3' A.F.F. or maximize the luminaires permitted by the local energy code but no less than two (2) luminaires per office. Wire one (1) luminaire near the exit doors to provide 24 hour lighting. Office lighting to be zoned at least 50/50.

16.9 OUTLET BOXES: All outlet boxes for wall switches, wall receptacles, telephone, etc. shall be galvanized steel or cast type boxes.

16.10 RECEPTACLES: Furnish and install two (2) 110V duplex receptacles and one (1) telephone "ring and string" in each office.

16.11 DEDICATED RECEPTACLES: Furnish and install a dedicated 110 volt fourplex outlet at the telephone board and two dedicated 110V outlets at the coffee bar.

16.12 GFI RECEPTACLES: Provide one GFI electrical outlet in each toilet room. Install GFI receptacles wherever required by code.

16.14 ELECTRICAL CONDUIT / CONDUCTOR MATERIAL: All conduit shall be EMT. MC cable may be used in lieu of EMT where permitted by code. Romex may not be used. All conductors must be copper.

16.15 CONDUIT INSTALLATION: All conduits in areas without ceilings shall be installed at or above the bottoms of the trusses or beams. All conduits shall be run at 90 degrees or parallel to structural members, walls floors and ceilings. No conduit may be installed below the slab or on top of the roof without the owner's written permission.

16.16 TELEPHONE BOARD: Furnish and install one, 4'x8'x3/4", APA C-D plugged (paint grade), fire retardant plywood telephone backboard for mounting customer's electrical or telephone equipment. Provide No. 6 copper ground wire unless otherwise required.

16.17 TRIM COLOR: All light switches, outlets and electrical trim shall be white.

16.18 LABELING: Label all panels, control points, switches, and motors as directed. Panels shall be identified by panel number. Switches shall be labeled indicating the equipment which they control. Typed (circuit) panel directories are to be supplied and installed

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

THAT CERTAIN REAL PROPERTY SITUATION IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY AND COUNTY OF SAN FRANCISCO AND IN THE CITY OF DALY CITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, BEING DESCRIBED AS FOLLOWS:

PARCEL I:
LOCATED IN THE CITY OF DALY CITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF SCHWERIN STREET, DISTANT THEREON THREE HUNDRED NINETY-SEVEN FEET (397') AND FOUR INCHES (4") SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF SUNNYDALE AVENUE; THENCE SOUTH 70°36' EAST PARALLEL WITH SAID LINE OF SUNNYDALE AVENUE, 1109.789 FEET TO THE TRUE POINT OF BEGINNING, SAID TRUE POINT OF BEGINNING BEING THE NORTHEASTERLY CORNER OF THAT PARCEL OF LAND CONVEYED BY CROWN CORK & SEAL COMPANY, INC., SUCCESSOR BY MERGER TO WESTERN CROWN AND SEAL CORPORATION, A CORPORATION, TO J. & P. ENTERPRISES, A CALIFORNIA CORPORATION, BY DEED RECORDED DECEMBER 22, 1960, IN BOOK 3910, PAGE 251, OFFICIAL RECORDS; THENCE SOUTH 19°24' WEST, ALONG THE LANDS OF J. & P. ENTERPRISES 794.640 FEET TO THE SOUTHWESTERLY LINE OF LANDS NOW OR FORMERLY OWNED BY ROSE SCHINI; THENCE SOUTH 70°36' EAST, ALONG SAID SOUTHWESTERLY LINE 707.00 FEET TO THE PRESENT NORTHWESTERLY LINE OF BAYSHORE BOULEVARD; THENCE NORTH 19°24' EAST (NORTH 18°30' EAST RECORD) AND ALONG SAID LINE OF BAYSHORE BOULEVARD, 794.640 FEET; THENCE NORTH 70°36' WEST 707.00 FEET TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION OF SAID LAND AS DESCRIBED IN DEED TO STANDARD OIL COMPANY OF CALIFORNIA, RECORDED AUGUST 11, 1965, IN BOOK 5006 OF OFFICIAL RECORDS, AT PAGE 676 (79526-Y), MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF BAYSHORE BOULEVARD, DISTANT THEREON 100 FEET NORTHERLY FROM THE NORTHERLY LINE OF MACDONALD AVENUE; RUNNING THENCE NORTHERLY ALONG SAID LINE OF BAYSHORE BOULEVARD, 50 FEET; THENCE AT A RIGHT ANGLE WESTERLY 115 FEET; THENCE AT A RIGHT ANGLE SOUTHERLY 50 FEET; THENCE AT A RIGHT ANGLE, EASTERLY 115 FEET TO THE PONT OF BEGINNING, CONVEYED FROM CROWN CORK & SEAL COMPANY, INC., A NEW YORK CORPORATION, SUCCESSOR BY MERGER TO WESTERN CROWN AND SEAL CORPORATION, A CORPORATION;

ORGANIZED UNDER THE LAWS OF THE STATE OF NEW YORK TO STANDARD OIL COMPANY OF CALIFORNIA, A DELAWARE CORPORATION.

ALSO EXCEPT THAT PORTION OF SAID LAND LYING WITHIN THE BOUNDARIES OF THE CITY AND COUNTY OF SAN FRANCISCO.

PARCEL II:
LOCATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS PERPENDICULARLY DISTANT 397 FEET, 4 INCHES SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF SUNNYDALE AVENUE, AND ALSO PERPENDICULARLY DISTANT 1109.789 FEET SOUTHEASTERLY FROM THE SOUTHEASTERLY LINE OF SCHWERIN STREET, SAID POINT BEING THE MOST NORTHEASTERLY CORNER OF THE PROPERTY CONVEYED BY CROWN CORK & SEAL COMPANY, INC. A CORPORATION, TO J. AND P. ENTERPRISES, A CALIFORNIA CORPORATION, BY DEED RECORDED DECEMBER 22, 1960, IN BOOK A206, PAGE 662, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO, SAID POINT BEING THE TURE POINT OF BEGINNING,; THENCE ALONG THE EASTERLY LINE OF SAID PROPERTY, SOUTH 19°24' WEST 39.80 FEET (39.555 FEET RECORD), MORE OR LESS, TO THE COUNTY LINE BETWEEN SAN FRANCISCO COUNTY AND SAN MATEO COUNTY, AS IT NOW EXISTS; THENCE ALONG SAID LINE, NORTH 89°50'10" EAST 118.86 FEET (118.05 FEET RECORD), MORE OR LESS, TO A POINT OF INTERSECTION WITH THE NORTHERLY BOUNDARY LINE OF THE DEED TO WESTERN CROWN & SEAL CORPORATION, RECORDED AUGUST 24, 1944, IN BOOK 4134, PAGE 166 OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO; THENCE ALONG SAID BOUNDARY LINE, NORTH 70°36' WEST, 112.00 FEET (NORTH 71°30' WEST 105.677 FEET RECORD), MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

Commonly known as 2650 Bayshore Boulevard, Daly City, California

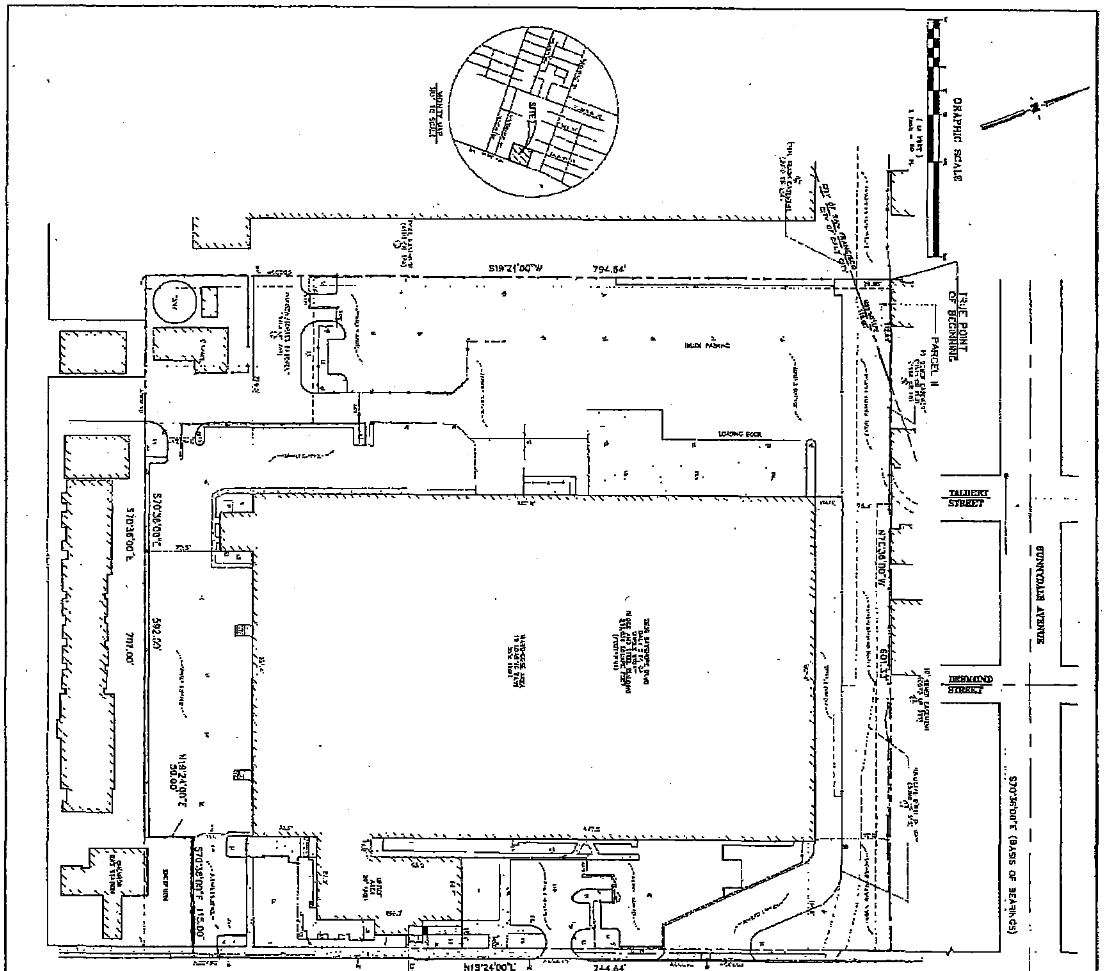

ALTA/ACSM LAND TITLE SURVEY
2650 BAYSHORE BLVD
DALY CITY, CA
DURYEA & ASSOCIATES, P.S.
BAYSHORE BLVD (125' WIDE)
SUNNYDALE AVENUE
TALBERT STREET
DESMOND STREET
GRAPHIC SCALE
TRUE POINT OF BEGINNING
PARCEL II
LEGAL DESCRIPTION
NOTES AND COMMENTS
CHICAGO TITLE COMPANY
LEGEND
SURVEYOR'S CERTIFICATION
S19°21'00"W 794.84'
N19°24'00"E 744.64'
S70°36'00"E
N70°36'00"W
S70°36'00"E (BASIS OF BEARINGS)
1 OF 1

EXHIBIT B

NOTICE OF COMMENCEMENT DATES

[Date]

Mr. Edward D. Reiskin
San Francisco Municipal Transportation Agency
1 South Van Ness Avenue, 7th Floor
San Francisco, CA 94103

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

RE: Acknowledgement of Commencement Dates, Lease Between PROLOGIS, L.P. (Landlord), and the CITY AND COUNTY OF SAN FRANCISCO (Tenant), for premises located at 2650 Bayshore Boulevard, Daly City, California 94014

Dear Mr. Reiskin and Mr. Updike:

Welcome to your new facility. We would like to confirm the terms of the above referenced lease agreement:

Lease Commencement Date: Date

Lease Expiration Date: Date

Rent Commencement Date: Date

We are pleased to welcome you as a customer of ProLogis and look forward to working with you. Please indicate your agreement with the above changes to your lease by signing and returning the enclosed copy of this letter to me. If I can be of service, please do not hesitate to contact me.

Sincerely,

Property Manager Name
Title

Accepted by:

_____
Edward D. Reiskin
Director of Transportation
San Francisco Municipal Transportation Agency

Date: _____

_____
John Updike
Acting Director of Property

Date: _____

EXHIBIT C

HAZARDOUS MATERIALS LIST

1. Permitted Hazardous Materials and Use.

City has requested Landlord's consent to use the Hazardous Materials listed below in its business at the Premises (the "Permitted Hazardous Materials"). Subject to the conditions set forth herein, Landlord hereby consents to the Use (hereinafter defined) of the Permitted Hazardous Materials. Any Permitted Hazardous Materials on the Premises will be generated, used, received, maintained, treated, stored, or disposed in a manner consistent with good engineering practice and in compliance with all Environmental Requirements.

Permitted Hazardous Materials (including maximum quantities):

1. Used motor oil/ coolant from leaks (2 55-gallon cans)
2. Used gasoline from leaks (1 55-gallon can)
3. Used dry sweep – mixed with oil (2 55-gallon cans)
4. Propane (28 9-gallon tanks)
5. Cleaners/degreasers (6 14.1-ounce containers)
6. Spill treatment solution – FM186-2 (1 55-gallon can)
7. Hydraulic oil (10 gallons)
8. Vehicle batteries (in vehicles and up to 15 removed from vehicles)
9. Vehicle tires (in vehicles and up to 30 removed from vehicles)
10. Antifreeze (in vehicles located at Premises and up to 15 gallons removed from vehicles)
11. Paint and sealant (amounts needed for routine facilities maintenance)
12. Vehicle fuel (contained in vehicles, including gasoline and diesel fuel)

The storage, uses or processes involving the Permitted Hazardous Materials (the "Use") are described below.

Use [If limited to receiving and storage, so specify]: Cleaning, storage of vehicles, routine repairs and maintenance, painting, and operation of equipment.

2. No Current Investigation. City represents and warrants that it is not currently subject to an inquiry, regulatory investigation, enforcement order, or any other proceeding regarding the generation, use, treatment, storage, or disposal of a Hazardous Material.

3. Notice and Reporting. City immediately shall notify Landlord in writing of any spill, release, discharge, or disposal of any Hazardous Material in, on or under the Premises or the Property. All reporting obligations imposed by Environmental Requirements are strictly the responsibility of City. City shall supply to Landlord within 5 business days after City first receives or sends the same, copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to City's use of the Premises.

4. Indemnification. City's indemnity obligation under the Lease with respect to Hazardous Materials shall include indemnification for the liabilities, expenses and other losses described therein as a result of the Use of the Hazardous Materials or the breach of City's obligations or representations set forth above. It is the intent of this provision that City be strictly liable to Landlord as a result of the Use of Hazardous Materials without regard to the fault or negligence of City, Landlord or any third party, except to the extent any spill, release, discharge, or disposal is caused by the willful misconduct of Landlord.

5. Disposal Upon Lease Termination. At the expiration or earlier termination of the Lease, City, at its sole cost and expense, shall: (i) remove and dispose off-site any drums, containers, receptacles, structures, or tanks storing or containing Hazardous Materials (or which have stored or

contained Hazardous Materials) and the contents thereof; (ii) remove, empty, and purge all underground and above ground storage tank systems, including connected piping, of all vapors, liquids, sludges and residues; and (iii) restore the Premises to its original condition. Such activities shall be performed in compliance with all Environmental Requirements and to the satisfaction of Landlord. Landlord's satisfaction with such activities or the condition of the Premises does not waive, or release City from, any obligations hereunder.

EXHIBIT D

FORM OF MEMORANDUM OF LEASE

RECORDING REQUESTED BY, AND
WHEN RECORDED, MAIL TO:

City and County of San Francisco
Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Attn: Director of Property

FOR RECORDER'S USE ONLY

MEMORANDUM OF LEASE

This Memorandum of Lease ("Memorandum"), dated for reference purposes as of _____, 2012, is by and between PROLOGIS, L.P., a Delaware limited partnership ("Landlord"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, acting by and through its Municipal Transportation Agency ("City").

Recitals

A. Concurrently herewith, Landlord and City have entered into that certain Lease, dated _____, 2012 (the "Lease"), pursuant to which Landlord leased to City and City leased from Landlord the real property more particularly described in the attached Exhibit A (the "Property"), which is incorporated by this reference.

B. The Lease provides City a one-time right of first negotiation to purchase the Property (the "Right of First Negotiation") on the terms specified in Section 22.1 of the Lease.

C. Landlord and City desire to execute this Memorandum to provide constructive notice of the Lease and the Right of First Negotiation to all third parties, and all of the terms and conditions of the Lease are incorporated herein by reference as if they were fully set forth herein and reference is made to the Lease itself for a complete and definitive statement of the rights and obligations of Landlord and Tenant thereunder.

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Term. Pursuant to the terms of the Lease, Landlord leased the Property to City for a term commencing on _____, 2012 (the "Lease Commencement Date"). The term of the Lease shall expire at midnight on the last day of the Two Hundred Fortieth (240th) full month following the Rent Commencement Date , unless earlier terminated or extended in accordance with the terms of the Lease. City has two 5-year options to extend the term of the Lease, and City's obligation to pay Base Rent commenced on _____, 2012.

2. Lease Terms. The lease of the Property to City is made pursuant to the Lease, which is incorporated in this Memorandum by reference. This Memorandum shall not be deemed to modify, alter or amend in any way the provisions of the Lease. In the event any

conflict exists between the terms of the Lease and this Memorandum, the terms of the Lease shall govern. Except as otherwise defined in this Memorandum, capitalized terms shall have the meanings given them in the Lease.

3. Successors and Assigns. This Memorandum and the Lease shall bind and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject, however, to the provisions of the Lease.

IN WITNESS WHEREOF, Landlord and City have executed this Memorandum of Lease as of the day and year first above written.

LANDLORD:

PROLOGIS, L.P.,
a Delaware limited partnership

By: Prologis, Inc.
Its: General Partner

By: _____
Its: _____

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, acting by and through its Municipal Transportation Agency

By: _____
Edward D. Reiskin
Director of Transportation

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

By: _____
Deputy City Attorney

State of California)
)
County of _____)

On _____ before me, _____,
personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California)
)
County of _____)

On _____ before me, _____,
personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A
to
Memorandum of Lease

Legal Description of Property

THAT CERTAIN REAL PROPERTY SITUATION IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY AND COUNTY OF SAN FRANCISCO AND IN THE CITY OF DALY CITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, BEING DESCRIBED AS FOLLOWS:

PARCEL I:
LOCATED IN THE CITY OF DALY CITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF SCHWERIN STREET, DISTANT THEREON THREE HUNDRED NINETY-SEVEN FEET (397') AND FOUR INCHES (4") SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF SUNNYDALE AVENUE; THENCE SOUTH 70°36' EAST PARALLEL WITH SAID LINE OF SUNNYDALE AVENUE, 1109.789 FEET TO THE TRUE POINT OF BEGINNING, SAID TRUE POINT OF BEGINNING BEING THE NORTHEASTERLY CORNER OF THAT PARCEL OF LAND CONVEYED BY CROWN CORK & SEAL COMPANY, INC., SUCCESSOR BY MERGER TO WESTERN CROWN AND SEAL CORPORATION, A CORPORATION, TO J. & P. ENTERPRISES, A CALIFORNIA CORPORATION, BY DEED RECORDED DECEMBER 22, 1960, IN BOOK 3910, PAGE 251, OFFICIAL RECORDS; THENCE SOUTH 19°24' WEST, ALONG THE LANDS OF J. & P. ENTERPRISES 794.640 FEET TO THE SOUTHWESTERLY LINE OF LANDS NOW OR FORMERLY OWNED BY ROSE SCHINI; THENCE SOUTH 70°36' EAST, ALONG SAID SOUTHWESTERLY LINE 707.00 FEET TO THE PRESENT NORTHWESTERLY LINE OF BAYSHORE BOULEVARD; THENCE NORTH 19°24' EAST (NORTH 18°30' EAST RECORD) AND ALONG SAID LINE OF BAYSHORE BOULEVARD, 794.640 FEET; THENCE NORTH 70°36' WEST 707.00 FEET TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION OF SAID LAND AS DESCRIBED IN DEED TO STANDARD OIL COMPANY OF CALIFORNIA, RECORDED AUGUST 11, 1965, IN BOOK 5006 OF OFFICIAL RECORDS, AT PAGE 676 (79526-Y), MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF BAYSHORE BOULEVARD, DISTANT THEREON 100 FEET NORTHERLY FROM THE NORTHERLY LINE OF MACDONALD AVENUE; RUNNING THENCE NORTHERLY ALONG SAID LINE OF BAYSHORE BOULEVARD, 50 FEET; THENCE AT A RIGHT ANGLE WESTERLY 115 FEET; THENCE AT A RIGHT ANGLE SOUTHERLY 50 FEET; THENCE AT A RIGHT

ANGLE, EASTERLY 115 FEET TO THE PONT OF BEGINNING, CONVEYED FROM CROWN CORK & SEAL COMPANY, INC., A NEW YORK CORPORATION, SUCCESSOR BY MERGER TO WESTERN CROWN AND SEAL CORPORATION, A CORPORATION; ORGANIZED UNDER THE LAWS OF THE STATE OF NEW YORK TO STANDARD OIL COMPANY OF CALIFORNIA, A DELAWARE CORPORATION.

ALSO EXCEPT THAT PORTION OF SAID LAND LYING WITHIN THE BOUNDARIES OF THE CITY AND COUNTY OF SAN FRANCISCO.

PARCEL II:
LOCATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS PERPENDICULARLY DISTANT 397 FEET, 4 INCHES SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF SUNNYDALE AVENUE, AND ALSO PERPENDICULARLY DISTANT 1109.789 FEET SOUTHEASTERLY FROM THE SOUTHEASTERLY LINE OF SCHWERIN STREET, SAID POINT BEING THE MOST NORTHEASTERLY CORNER OF THE PROPERTY CONVEYED BY CROWN CORK & SEAL COMPANY, INC. A CORPORATION, TO J. AND P. ENTERPRISES, A CALIFORNIA CORPORATION, BY DEED RECORDED DECEMBER 22, 1960, IN BOOK A206, PAGE 662, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO, SAID POINT BEING THE TURE POINT OF BEGINNING,; THENCE ALONG THE EASTERLY LINE OF SAID PROPERTY, SOUTH 19°24' WEST 39.80 FEET (39.555 FEET RECORD), MORE OR LESS, TO THE COUNTY LINE BETWEEN SAN FRANCISCO COUNTY AND SAN MATEO COUNTY, AS IT NOW EXISTS; THENCE ALONG SAID LINE, NORTH 89°50'10" EAST 118.86 FEET (118.05 FEET RECORD), MORE OR LESS, TO A POINT OF INTERSECTION WITH THE NORTHERLY BOUNDARY LINE OF THE DEED TO WESTERN CROWN & SEAL CORPORATION, RECORDED AUGUST 24, 1944, IN BOOK 4134, PAGE 166 OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO; THENCE ALONG SAID BOUNDARY LINE, NORTH 70°36' WEST, 112.00 FEET (NORTH 71°30' WEST 105.677 FEET RECORD), MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

Commonly known as 2650 Bayshore Boulevard, Daly City, California

EXHIBIT E

FORM OF LANDLORD CONSENT AND WAIVER AGREEMENT

CONSENT AND WAIVER AGREEMENT

THIS CONSENT AND WAIVER AGREEMENT (this "**Agreement**") is made and entered into as of the _____ day of _____, 20____ by and between _____ ("**Landlord**"), and _____ ("**Vendor**").

WITNESSETH:

Whereas, Landlord and _____ ("**Tenant**") have entered into that certain lease dated _____, 20__ (together with any amendments, modifications, or extensions, the "**Lease**") pursuant to which Tenant is leasing certain premises located at _____ ("**Premises**") from Landlord;

Whereas, Vendor is [leasing][supplying] the materials described in the attached Schedule 1 the "**Personal Property**") to Tenant at the Premises pursuant to _____ ("**Supply Agreement**"), Tenant has requested, and Landlord has agreed, subject to certain conditions, to the following matters.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Vendor hereby agree as follows:

1. Notwithstanding any provision of the Lease which may exist or any statutory lien in favor of the Landlord, any lien that Landlord might have to the Personal Property shall be subordinate and subject to the lien that Vendor has in the Personal Property pursuant to the Supply Agreement ("**Vendor's Lien**").

2. During the term of the Lease ("**Term**"), Landlord agrees not to interfere with Vendor, or Vendor's agents, in Vendor's efforts to assemble, remove or sell the Personal Property located on the Premises or otherwise hinder Vendor's actions in enforcing Vendor's Lien (including without limitation, the inspection of the Personal Property by Vendor or Vendor's agents). Notwithstanding the foregoing, if and when Vendor receives the Landlord Notice (as defined in Paragraph 3 below), the terms set forth in Paragraph 4 shall prevail.

3. If Landlord takes action to terminate the Tenant's possession of the Premises or the Lease prior to the expiration of the Term, Landlord agrees to provide Vendor with written notice upon the completion of such action by Landlord (the "**Landlord's Notice**") to the Vendor in person or by a commercially-recognized, next business day courier service at the following address:

_____

4. After Landlord has delivered the Landlord's Notice to Vendor, Landlord agrees to provide Vendor with access to the Premises for the purpose of collecting, removing and selling the Personal Property on the condition that: (i) Vendor hereby agrees that it shall not enter, occupy and/or possess the Premises for a period beyond thirty (30) days after Vendor's receipt of the Landlord's Notice ("**Disposition Period**"), and (ii) Vendor (a) will pay to Landlord the basic rent and excess operating expenses due under the Lease, pro-rated on a per diem basis determined on a 30-day month, for each day that occurs between the fifth (5^{th}) day immediately following Vendor's receipt of the Landlord's Notice and the day that Vendor removes the Personal Property from the Premises, and (b) shall retain liability and property insurance coverage in the same forms and amounts as required by Tenant under the Lease at all times that Vendor is on the Premises to remove the Personal Property. If any injunction or stay is issued (including automatic stay due to a bankruptcy proceeding) that prohibits (Y) Vendor from removing the Personal Property, and (Z) Landlord from retaking possession of the Premises, the commencement of the Disposition Period will be deferred until such injunction or stay is lifted or removed as to the Landlord and Vendor.

5. During any period of Vendor's entry on the Premises, Vendor agrees to allow Landlord full access to the Premises for the purposes of marketing the Premises for lease and making repairs and improvements to the Premises.

6. Except for matters arising from the gross negligence or willful misconduct of Landlord, and to the extent permitted by law, Vendor agrees to indemnify, defend and hold harmless Landlord, and Landlord's agents, employees and contractors, from and against any and all losses, liabilities, damages, costs and expenses (including attorneys' fees) resulting from claims by third parties for injuries to any person and damage to or theft or misappropriation or loss of property occurring in or about the Premises is located and arising from the entry, use or occupancy of the Premises by Vendor or from any activity, work, or thing done, permitted or suffered by Vendor in or about the Premises when on the Premises or due to any other act or omission of Vendor, its invitees, employees, contractors and agents when on the Premises. The furnishing of insurance required hereunder shall not be deemed to limit Vendor's obligations under this Paragraph.

7. Vendor hereby agrees that Lender shall be required to repair any damage to the Premises caused by Vendor, or Vendor's agents, during the period in which Vendor (or its agents) enters or is in possession of the Premises (ordinary wear and tear excluded). Vendor shall not have any duty or obligation to remove or dispose of any Personal Property left on the Premises by Tenant.

8. Neither Vendor, nor Vendor's agents, shall hold any public auction or public sale of the Personal Property on the Premises. Landlord shall permit Vendor to hold a private sale of the Personal Property on the Premises.

9. This Agreement shall in all respects be a continuing agreement and shall expire upon the earlier of (i) the expiration of the Disposition Period, or (ii) Tenant's satisfaction in full of Tenant's obligations under the Agreement, as evidenced by written release or termination by the Vendor.

IN WITNESS WHEREOF, this Agreement has been executed and delivered by the Vendor and the Landlord as of the day and year first written above.

VENDOR:

_____

By:_____
Name:_____
Title:_____

LANDLORD:

_____

By:_____
Name:_____
Title:_____

AMENDED AND RESTATED SERVICE AGREEMENT AND PROPERTY USE LICENSE

FOR TOWING, STORAGE AND DISPOSAL

OF ABANDONED AND ILLEGALLY PARKED VEHICLES

by and between the

CITY AND COUNTY OF SAN FRANCISCO

AND

TEGSCO, LLC

d.b.a. SAN FRANCISCO AUTORETURN,
a California Limited Liability Company

Dated: July 31, 2010

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AMENDED AND RESTATED AGREEMENT AND PROPERTY USE LICENSE FOR TOWING, STORAGE, AND DISPOSAL OF ABANDONED AND ILLEGALLY PARKED VEHICLES BY AND BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND TEGSCO, LLC, D.B.A. SAN FRANCISCO AUTORETURN

This Amended and Restated Service Agreement And Property Use License for Towing, Storage, and Disposal of Abandoned and Illegally Parked Vehicles ("Amended and Restated Agreement"), dated for convenience as July 31, 2010, is entered into by and between the City and County of San Francisco, a municipal corporation, acting by and through its Municipal Transportation Agency, hereinafter referred to as "City", and TEGSCO, LLC, a California limited liability company doing business as San Francisco AutoReturn, hereinafter referred to as "Contractor", in the City and County of San Francisco, State of California, for the services and under the terms described herein.

Recitals

WHEREAS, The City issued a Request for Proposals for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles on September 18, 2002 ("RFP"); and

WHEREAS, Contractor submitted a proposal dated March 10, 2003 ("Proposal") which was selected by City as the highest-ranked proposal among the proposals submitted in response to the RFP; and

WHEREAS, In the course of negotiating a Service Amended and Restated Agreement And Property Use License For Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles the City's existing towing services contractor, The City Tow, informed the City on January 23, 2004 that it would cease to provide towing services as of March 21, 2004; and

WHEREAS, The cessation of towing services under the then-existing contract with The City Tow created emergency circumstances that required the City and Contractor, with the approval of the San Francisco Board of Supervisors, to enter into an Emergency Interim Service Amended and Restated Agreement and Property Use License for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles ("Emergency Interim Agreement") pending negotiation of the long-term contract pursuant to the RFP, and Contractor began providing towing services to the City on March 22, 2004; and

WHEREAS, The City and Contractor entered into the Service Agreement and Property Use License for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles (the "Original Agreement"), which had a five-year term ending on July 31, 2010 and an option to extend; and

WHEREAS, On June 30, 2007 the City and Contractor entered into an amendment to the Original Agreement (the "First Amendment"), which revised the rate schedule for towing, impounding, lien, and administrative towing fees; and

WHEREAS, the City and Contractor now wish to amend the Original Agreement as amended by the First Amendment to: (1) extend the Original Agreement for five years, until July 31, 2015, (2) revise the rates to be charged for towing and storage of vehicles under the Original Agreement, as amended by the First Amendment, (3) require Contractor to contribute to an audit fund and a fund to be used by City to hire an employee to monitor Contractor's performance, (4) update the insurance and performance guarantees required by the Original Agreement, (5) make changes to the procedures that

Contractor must follow under the Original Agreement; and 6) amend other provisions of the Original Agreement as amended, by the First Amendment; and

WHEREAS, For simplicity of reference and ease of use by the parties, the parties wish to amend and restate the Original Agreement as amended by the First Amendment by means of this Amended and Restated Service Agreement and Property Use License for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles; and

WHEREAS, The parties acknowledge and agree that this Amended and Restated Agreement amends and restates the Original Agreement as amended by the First Amendment, in its entirety, contains the entire understanding of the parties, and thereby supersedes and replaces the Original Agreement as amended by the First Amendment;

NOW, THEREFORE, based on the foregoing, and in consideration of the promises, covenants, and undertakings contained herein, the City and Contractor hereby agree as follows:

AMENDED AND RESTATED AGREEMENT

1. **Definitions**

The following words and phrases shall have the meanings set forth below when used in this Amended and Restated Agreement:

1.1 Abandoned Vehicle: A vehicle that qualifies to be towed pursuant to San Francisco Traffic Code § 159, or successor section of the San Francisco Municipal Code, because it is parked or left standing on a public street or highway in the City for more than 72 consecutive hours, or is deemed to be abandoned pursuant to Vehicle Code § 22669(a), or is found to be a public nuisance on private property pursuant to Vehicle Code § 22660 and Traffic Code § 234, or successor statutes or local laws..

1.2 Administrative Hold: A hold placed on a vehicle impounded by SFMTA or SFPD pursuant to which the vehicle may not be released prior to the passage of a specified period of time, fulfillment of statutory requirements or upon written authorization by the impounding agency. The procedures and requirements for Administrative Holds are further described in Section 4.7 of Appendix A to this Amended and Restated Agreement.

1.3 Agreement: This Amended and Restated Agreement, its Appendices, Exhibits and Attachments to Appendices, the Operations Plan as adopted in accordance with Section 14 of Appendix A, the RFP, the Proposal, and other documents attached hereto or specifically incorporated herein by reference.

1.4 Automated Dispatch System (ADS): Contractor's automated dispatch management system that is GPS-enabled and provides electronic dispatch communications.

1.5 Central Dispatch: Contractor's primary facility for taking Tow Requests and dispatching Tow Cars, as further defined in Section 11.1(d) of Appendix A.

1.6 Citation: A ticket for a parking violation processed by SFMTA.

1.7 City: The City and County of San Francisco, acting by and through its Municipal Transportation Agency.

1.8 Claim: Any claim brought against the City or Contractor or their respective agents, contractors or employees for theft of property or injury to any property or person arising out of Contractor's performance of services under this Agreement. For the purpose of Appendix A, § 5.2, "Claim" shall mean a request for compensation for personal injury, loss from or damage to towed

vehicle and/or personal property, costs of recovering a vehicle that was not dropped in violation of Appendix A, Section 4.2, or the value of a vehicle that was lost in violation of Section 4.1 of Appendix A.

1.9 **Complaint**: Any problem with service provided by Contractor within the scope of this Agreement that is communicated to Contractor or City by a Customer and which is not a Claim. This does not include issues reported to the Contractor by Customers that the Contractor is able to resolve to the satisfaction of the Customer through internal issue resolution procedures.

1.10 **Controller**: The Controller of the City and County of San Francisco or any duly authorized agent thereof.

1.11 **Citation Management System (CMS)**: SFMTA's Ticket Information Management System (TIMS) or successor system(s) used by SFMTA for tracking Tow Requests and Citations.

1.12 **Customer**: A member of the public who is associated with an impounded vehicle, which may include the registered owner, the driver of the vehicle at the time that it is stopped or towed, a person who appears on behalf of the owner or the driver of the vehicle, or a purchaser of a vehicle at lien sale auction.

1.13 **Customer Service Center** The location for Customers recovering vehicles in person to pay fees and process required forms for release of a vehicle, as further described in Appendix A Section 11.1(a) and located at 450 7th Street, San Francisco.

1.14 **Courtesy Tows**: Tows requested for disabled vehicles owned or used in an official capacity by either SFPD or SFMTA.

1.15 **Days**: Consecutive calendar days, including weekends and holidays, unless otherwise specified.

1.16 **Deficiency Claim**: A claim by Contractor against a registered vehicle owner equal to towing and storage charges, less any amount received from the sale of the vehicle, and which is subject to all rights and limitations set forth in California Civil Code § 3068.2 or any successor statute that creates, defines and limits Contractor's right to such claim.

1.17 **Delinquent Citation**: A Citation that was unpaid past the original due date for payment, upon which penalties for overdue payment have accrued, and which is not scheduled for administrative review or hearing by SFMTA.

1.18 **Designated Facilities**: Real property and any buildings and improvements thereon used by Contractor in the performance of this Agreement, as further described in Appendix A, Section 11.1.

1.19 **Director of Transportation**: The Chief Executive Officer of the Municipal Transportation Agency of the City and County of San Francisco.

1.20 **Dispatch Tows**: Individual Tow Requests that are communicated to Contractor from the Enforcement tow desk or other dispatch center operated by the City.

1.21 **DMV**: California Department of Motor Vehicles.

1.22 **DPH**: Department of Public Health of the City and County of San Francisco.

1.23 **Effective Date**: July 31, 2010, or the date upon which all required approvals are obtained and all signatures of the parties have been affixed hereto, whichever date is later.

1.24 **Employees:** The persons directed and controlled by Contractor and/or its PEO Contractor who are providing work and services on behalf of Contractor in order to perform the work required under this Agreement, not including entities that are independent subcontractors. The classes and job descriptions of persons who are Employees of Contractor may include, but are not limited to:

(a) Cashiers, bookkeepers, and accountants.

(b) Persons who move vehicles at and between Designated Facilities (also known as "Storage Specialists").

(c) Forklift and heavy equipment operators.

(d) Clerks, secretaries, telephone operators and administrative and information technology/computer support personnel.

(e) Tow Car operators directly employed by Contractor and/or its PEO Contractor.

(f) Guards and security personnel.

1.25 **Expedited Tow**: A tow needed to ensure public or officer safety and/or to eliminate a hazard.

1.26 **Gross Revenues**: Contractor's gross receipts from all fees and proceeds under this Agreement, including all revenues derived from lien sales conducted pursuant to this Agreement. "Gross Revenues" do not include SFMTA or SFPD Traffic Offender Fees or fees payable by vehicle owners or operators collected by Contractor on behalf of the City pursuant to the terms of this Agreement.

1.27 **Headquarters Office**: Contractor's administrative office, currently located at 945 Bryant Street, Suite 350 San Francisco, California.

1.28 **Investigative Police Hold**: A Police Hold imposed on an evidentiary vehicle for the purpose of criminal investigation, as further described in Appendix A, Section 4.6.

1.29 **Letter of Credit**: The letter of credit which Contractor is required to maintain to guarantee the performance of Contractor's obligations under this Agreement, as further described in Section 12.1 and 12.2 and in Appendix C, Section 6 of this Agreement. The Letter of Credit and all replacement Letters of Credit provided by Contractor during the Term of this Agreement shall be attached hereto as Appendix E and is incorporated by reference as though fully set forth herein.

1.30 **Lien 1 Vehicle**: A low-value vehicle, including a vehicle valued at five hundred dollars ($500) or less, in accordance with Vehicle Code § 22670 (requiring valuation of any vehicle towed by a public agency) and § 22851.2 (regarding vehicles valued at an amount not exceeding five hundred dollars ($500) and not towed for being abandoned) or a vehicle valued at five hundred dollars ($500) or less pursuant to § 22851.3 (regarding vehicles towed for being abandoned) and §§ 22851.6 - 22851.10 (regarding disposal procedures for low-value vehicles). If the Vehicle Code is amended subsequent to the Effective Date to change the dollar amounts that trigger requirements for low-value vehicles, this Agreement shall incorporate such amendments by reference as though fully set forth herein for the purpose of defining dollar-value thresholds and legally required procedures for handling and disposal of low-value vehicles.

1.31 **Lien 2 Vehicle**: A medium-value vehicle valued at more than five hundred dollars ($500) and up to and including four thousand dollars ($4,000) in accordance with Vehicle Code § 22670 (requiring valuation of any vehicle towed by a public agency), or over five hundred dollars ($500) and up to and including four thousand dollars ($4,000) for the purpose of Vehicle Code

§ 22851.3 (regarding vehicles towed for being abandoned), and California Civil Code §§ 3067-3075 (setting forth legally required procedures for lien sales of towed vehicles). If the Vehicle Code or the California Civil Code are amended subsequent to the Effective Date to change the dollar amounts which trigger requirements for medium-value vehicles, this Agreement shall incorporate such amendments by reference as though fully set forth herein for the purpose of defining dollar-value thresholds and legally required procedures for handling and disposal of medium-value vehicles.

1.32 **Lien 3 Vehicle**: A high-value vehicle valued at more than four thousand dollars ($4,000), in accordance with Vehicle Code § 22670, requiring valuation of any vehicle towed by a public agency, and California Civil Code Sections 3067-3075, setting forth required procedures for lien sales of vehicles. If the Vehicle Code or the California Civil Code are amended subsequent to the Effective Date to change the dollar amounts which trigger requirements for high-value vehicles, this Agreement shall incorporate such amendments by reference as though fully set forth herein for the purpose of defining dollar-value thresholds and legally required procedures for handling and disposal of high-value vehicles.

1.33 **Lien Category**: The classification of a vehicle as a Lien 1, Lien 2 or Lien 3 vehicle in accordance with its appraised value.

1.34 **Mandatory Fee**: All fees that must be paid by Customer before Contractor may release any vehicle to the owner or purchaser of a vehicle. Mandatory Fees include: boot fees, SFMTA Administrative Fee, SFPD Traffic Offender Fee, towing, storage, transfer and lien fees, returned check charges and Delinquent Citation fees, as applicable.

1.35 **Monthly Finance Report:** Monthly report that summarizes administrative and referral fees paid by the Contractor to the City and waiver activity.

1.36 **Occurrence**: Any accident or incident occurring in a single place at a single time from a single event that results in one or more claims for injury to persons or property. An accident or incident that results in multiple claims shall be considered a single Occurrence for purposes of applying any deductible provisions of Contractor's insurance coverages.

1.37 **Operations Plan:** The collected written procedures manuals, lists and schedules required to be submitted by Contractor and approved by City as set forth in Appendix A, Section 14, and which are listed in Appendix B to this Agreement. When approved by City, the Operations Plan shall define the service standards for the work to be performed under this Agreement, and is hereby incorporated into this Agreement as though fully set forth herein.

1.38 **Peak Service Hours:** Monday through Friday, 7:00 a.m. to 8:00 p.m., excluding City holidays.

1.39 **Peak Towing Hours:** Monday through Friday, 7:00 a.m. to 9:00 a.m. and 3:00 p.m. to 7:00 p.m., excluding City holidays.

1.40 **PEO Contract**: Any agreement with any professional employment organization (PEO) which provides payroll, workers' compensation, work place safety, staffing and other human resources services, for the purpose of performing the services required by this Agreement. "PEO Contract" does not include contracts with subcontractors for the provision of Tow Cars, Tow Equipment and related towing services.

1.41 **PEO Contractor**: An entity with whom Contractor has entered into a PEO Contract.

1.42 **Performance Bond**: The Performance Bond which Contractor is required to maintain to guarantee the performance of Contractor's obligations under this Agreement, as further

described in Section 12.1 and 12.2 and in Appendix C, Section 6 of this Agreement. The Performance Bond and all replacement Performance Bonds provided by Contractor during the Term of this Agreement shall be attached hereto as Appendix F and incorporated by reference as though fully set forth herein.

1.43 Police Hold: A hold placed on a vehicle by the SFPD in writing which requires a vehicle to be processed in accordance with the Police Hold procedures specified in this Agreement, or a vehicle with no visible VIN which is held for inspection by the SFPD.

1.44 Port: The San Francisco Port Commission, an agency of the City and County of San Francisco.

1.45 Port MOU: That certain Memorandum of Understanding by and between SFMTA and the Port, a copy of which is attached hereto as Appendix C and incorporated by reference as though fully set forth herein.

1.46 Primary Storage Facility: The facilities primarily used for short term storage of impounded vehicles currently located at 450 7th Street, San Francisco, California, as further described in Section 11.1(b) of Appendix A.

1.47 Project 20: The SFMTA program which allows vehicle owners and operators to perform community service in lieu of paying Citation fees, in accordance with Vehicle Code § 40215(c)(7).

1.48 Property, Properties: Real property owned by the City and licensed to Contractor for the purpose of this Agreement, Pier 70 as of the Effective Date of this Agreement, and any other properties that may be licensed to Contractor by City for the purpose of this Agreement during its Term.

1.49 Proposal: The proposal submitted by Contractor in response to the RFP, dated March 10, 2003, incorporated by reference into this Agreement as though fully set forth herein.

1.50 Records: The documents Contractor is required to create and maintain under this Agreement, including but not limited to: (1) complete and accurate books, accounts and documentation of financial transactions relating to all items of income received and expenses incurred in the performance of this Agreement; (2) documentation of all vehicles towed; (3) documentation of all vehicles stored; (4) documentation of all Claims; (5) all Monthly Management Reports and other reports Contractor is required to submit to City; (6) charts and diagrams of any property licensed to Contractor by City to fulfill the obligations of this Agreement; (7) other documents or reports as City may require Contractor to produce in the course of performing work under the Agreement; and (8) the Records described in Section 13 of Appendix A to this Agreement.

1.51 Referral Fee: The fee established in Section 12.1(a) of Appendix A to this Agreement.

1.52 RFP: The City and County of San Francisco's Request for Proposals for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles, dated September 18, 2002, and all addenda thereto, incorporated by reference into this Agreement as though fully set forth herein.

1.53 Regional Sweeps: Pre-arranged parking or traffic enforcement operations in designated areas. These tow requests are generally communicated directly by SFPD officers or SFMTA Parking Enforcement Officers to Tow Car operators who are deployed in the field and assigned to specific officer(s).

1.54 Routine Tows: Scheduled Tows and Dispatch Tows.

1.55 **Scheduled Tows**: Pre-arranged tow events at times and in places designated by City, including but not limited to scheduled commuting hour ("towaway") tows, Zone Tows, Special Events Tows and Abandoned Vehicle tows. These tow requests are generally communicated directly by SFPD officers or SFMTA Parking Enforcement Officers to Tow Car operators who are deployed in the field and assigned to specific officer(s).

1.56 **Scofflaw Vehicle**: A vehicle towed for multiple Delinquent Citations pursuant to subsection (i) of Vehicle Code § 22651.

1.57 **Secondary Storage Facility**: The facility primarily used for long term storage of impounded vehicles, located at Pier 70, San Francisco, California as of the Effective Date of this Agreement, as further described in Appendix A, Section 11.1(c).

1.58 **SFMTA:** The San Francisco Municipal Transportation Agency an agency of the City and County of San Francisco

1.59 **SFPD**: The Police Department of the City and County of San Francisco or any duly authorized officer or member thereof.

1.60 **SFPD Traffic Offender Fee**: The fee described in Section 12.1(d) of Appendix A to this Agreement, as authorized by Traffic Code §§ 170.2-A and 170.2-B and Vehicle Code § 22850.5, or successor statutes or ordinances.

1.61 **Special Events Tows**: Tows of vehicles parked in violation of temporary parking restrictions, as authorized by Traffic Code §§ 33(c) and 130 or successor ordinances.

1.62 **Term**: The duration of this Agreement as established in Section 2 herein, and any additional period during which Contractor completes repair, remediation or other work required for the termination of the License agreement for Pier 70, as set forth in Appendices C and D of this Agreement, and the tasks listed in Section 54 of this Agreement for transition to a successor contractor or successor agreement.

1.63 **Tow Car**: A motor vehicle which has been altered or designed and equipped for and exclusively used in the business of towing vehicles by means of a crane, hoist, tow bar, tow line, or dolly or is otherwise exclusively used to render assistance to other vehicles, and as defined in Vehicle Code § 615.

1.64 **Tow Equipment**: Tow Cars and all appurtenant computer systems, communications devices, hand tools, electric tools and towing hardware, whether or not expressly listed in this Agreement, which are necessary to perform towing services to the standards of the towing industry and as set forth in this Agreement.

1.65 **Tow Request**: A request directed to Contractor from SFMTA, DPH or SFPD for service by a Tow Car or Tow Equipment for the removal or relocation of a vehicle.

1.66 **Towed Vehicle Management System (TVMS):** The electronic database system to be used by Contractor to meet record keeping, reporting and vehicle handling requirements of this Agreement, as further described in Section 10 of Appendix A.

1.67 **Traffic Code**: The Traffic Code of the City and County of San Francisco.

1.68 **Treasurer**: The Treasurer of the City and County of San Francisco.

1.69 **Unavoidable Delays**: With respect to a delay in performance, "Unavoidable Delay" shall mean any delay that is attributable to any: (a) strike, lockout or other labor or industrial disturbance (whether or not on the part of the employees of either party hereto or their contractors),

civil disturbance, future order claiming jurisdiction, act of the public enemy, war, riot, sabotage, blockage, embargo, inability to secure customary materials, supplies or labor through ordinary sources by reason of regulation or order of any government or regulatory body; (b) changes in any applicable laws or the interpretation thereof; or (c) lightning, earthquake, fire, storm, hurricane, tornado, flood, washout, explosion; or (d) a governmental taking by eminent domain of all or a substantial portion of a Designated Facility; or (e) any interference with Contractor's right to access a substantial portion of a Designated Facility owned or provided for Contractor's use by City, or any other cause beyond the reasonable control of the party from whom performance is required, or any of its contractors or other representatives.

1.70 **Vehicle Code**: The Vehicle Code of the State of California.

1.71 **VIN**: The distinguishing number or other mark used for the purpose of uniquely identifying a vehicle or vehicle part, as further defined in Vehicle Code § 671.

1.72 **WAN**: Wide Area Network.

1.73 **Zone Tows**: Tows of vehicles parked in zones listed in Traffic Code § 71b, or successor ordinance.

GENERAL PROVISIONS

2. Term of the Agreement

The Term of this Agreement shall be five years, from the July 31, 2010 through July 31, 2015. The City agrees to submit a request for an increase in rates to the SFMTA Board to reflect any increased cost to Contractor for increased rental payments for the property at Pier 70 from August 1, 2010 through July 31, 2015 that is in excess of CPI adjustments to be applied during the terms of Appendices C and D.

3. Effective Date of Amended and Restated Agreement

This Amended and Restated Agreement shall commence upon the Effective Date.

4. Services Contractor Agrees to Perform

The Contractor shall tow and store any vehicles that SFMTA, DPH or the SFPD orders removed from any public street or highway or from private property within the City, in accordance with the requirements of the San Francisco Transportation Code and the Vehicle Code, and shall perform such other related services as are described in this Agreement, in accordance with Appendix A, "Scope of Work," and Appendix B "Operations Plan". Appendix A, Appendix B, and the Operations Plan to be adopted and amended as provided in Section 14 of Appendix A are all attached hereto and incorporated by reference as though fully set forth herein. Rates and charges to the public for services under this Agreement shall be as set forth in Appendix F, attached hereto and incorporated by reference as though fully set forth herein.

All vehicle handling and storage required by this Agreement shall be conducted at one of the Designated Facilities. As of the Effective Date of this Agreement, City hereby licenses to Contractor the use of one of the real properties on which the Designated Facilities are currently located -- Pier 70, San Francisco. The license agreement for this property is attached hereto as Appendix D and is incorporated by reference as though fully set forth herein. The parties acknowledge that Contractor's Customer Service Center and Primary Storage Facility operations are conducted at a property owned

by Caltrans and leased by Contractor -- 450 7th Street. Should City cease to use Contractor for towing services, the terms for the City's continued use of the 450 7th Street property are attached hereto as Appendix G and are incorporated by reference as though fully set forth herein.

City hereby consents to Contractor's towing and storage of vehicles that are not towed or stored pursuant to a Tow Request with the prior written approval of City and subject to any conditions imposed in such written approval; provided however, that (i) Contractor shall at all times conduct itself in accordance with the Customer service standards of this Agreement so as not create any negative effect on Contractor's public image and reputation as the City's towing contractor, and (ii) Contractor's operations with respect to such vehicles shall not create any adverse impact on its performance of all requirements of this Agreement. City may revoke its consent at any time without cause by written notice to Contractor. The following sections of this Agreement shall apply to any towing or storage of vehicles by Contractor within the City and County of San Francisco that are not towed or stored pursuant to a Tow Request: Service Agreement Sections 8, 9, 11, 12, 13, 14, 15, 16, 17, 20, 22, 26, 27, 28, 29, 31, 32, 35, 37, 38, 40, 41, 42, 50; Appendix A Sections 1, 3, 4, 5, 6, 7, 9, 11, 12.1(b), 12.3, 12.5, 12.6, 13, 14; Appendix B, Appendices C and D during their respective terms, and Appendices E and F.

5. Submitting False Claims; Monetary Penalties

Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. The text of Section 21.35, along with the entire San Francisco Administrative Code is available on the web at http://www.municode.com/Library/clientCodePage.aspx?clientID=4201. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

6. Taxes

Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Amended and Restated Agreement, or the services delivered pursuant hereto, shall be the obligation of Contractor. Contractor recognizes and understands that this Agreement may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

(1) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that Contractor, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest;

(2) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Amended and Restated Agreement may result in a "change in ownership" for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Agreement.

Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

(3) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (See, e.g., Rev. & Tax. Code section 64, as amended from time to time). Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

(4) Contractor further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

7. Payment Does Not Imply Acceptance of Work

The acceptance of any payment by City and/or Contractor's deduction or offset of funds (that would otherwise be paid by City to Contractor as payment for services) from revenues generated under the Agreement shall in no way lessen the liability of Contractor to replace unsatisfactory work, equipment, or materials, although the unsatisfactory character of such work, equipment or materials may not have been apparent or detected at the time such payment was received. Work that does not conform to the requirements of this Agreement may be rejected by City and in such case Contractor must take immediate corrective action.

8. Qualified Personnel

Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor, or through subcontracts entered into pursuant to Section 27. Contractor will comply with City's reasonable requests regarding assignment of personnel, including the removal of specified personnel upon request of City, but all personnel, including those assigned at City's request, must be supervised by Contractor. Contractor shall commit adequate resources to meet its obligations under this Amended and Restated Agreement.

8.1 Contractor Is the Employer of the Employees

Notwithstanding any language in any PEO Contract, and notwithstanding the intent of Contractor and/or any contractor for PEO Contract services in entering into a PEO Contract or as memorialized within a PEO Contract or as a PEO Contract may be construed by any person, Contractor affirms, agrees and warrants that for all purposes under the Agreement and under relevant law applicable to the Agreement, Contractor is the employer of the Employees. Contractor affirms, agrees and warrants that for all purposes of the Agreement, specifically including but not limited to Contractor's duties under Sections 4, 5, 8, 9, 10, 14, 15, 16, 18, 21, 22, 26, 30, 32, 35, 37, 40, 41, 42, 43, 49, 50 of this Agreement, and Section 8 of Appendix A to this Agreement, Contractor is the employer of the Employees.

8.2 PEO Contract Shall Not Control or Modify the Agreement

Notwithstanding any language in any PEO Contract, and notwithstanding the intent of Contractor and/or a PEO Contractor in entering into a PEO Contract or as memorialized within a PEO Contract or as a PEO Contract may be construed by any person, Contractor affirms, agrees and warrants that all provisions of this Agreement are in full force and effect, and that a PEO Contract does not modify Contractor's obligations and duties under this Agreement. Contractor further agrees, affirms and

warrants that a PEO Contract shall have no effect upon the City's rights under this Agreement and a PEO Contract does not alter the City's right to enforce all provisions of this Agreement against Contractor directly.

8.3 PEO Contract is a Subcontract to the Agreement

Notwithstanding any language in any PEO Contract, and notwithstanding the intent of Contractor and/or a PEO Contractor in entering into a PEO Contract or as memorialized within a PEO Contract or as a PEO Contract may be construed by any person, Contractor affirms, agrees and warrants that for all purposes under this Agreement and under relevant law applicable to this Agreement, any PEO Contract is a subcontract for the purpose of providing payroll, workers' compensation, work place safety and other human resources services to Contractor.

8.4 Contractor is Liable for All Actions of PEO Contractor

Notwithstanding any language in any PEO Contract, and notwithstanding the intent of Contractor and/or a PEO Contractor in entering into a PEO Contract or as memorialized within a PEO Contract, or as any PEO Contract may be construed by any person, Contractor affirms, agrees and warrants that, Contractor shall be liable for all actions of its PEO Contractor insofar as said actions affect the City or Contractor's performance of its duties under the Agreement. For purposes of the Agreement, Contractor shall not assign and has not assigned any of its duties under the Agreement to its PEO Contractor.

8.5 City is not a General or Special Employer to the Employees

The parties agree no employment relationship exists between the City and the Employees. As to the Employees, the City is not a "General Employer" or "Special Employer", as those terms are defined under California law, for any purpose, including but not limited to application of California Labor Code §§ 6300 *et seq.* and California Insurance Code § 11663, or any other applicable statute. Should a court or administrative agency having jurisdiction over the issue determine that the City is a "General Employer" or "Special Employer" of the Employees, Contractor shall fully indemnify the City for all costs and liabilities arising from that finding, including but not limited to consequential and incidental damages, temporary disability indemnity, permanent disability indemnity, medical costs, penalties and fines, vocational rehabilitation costs, and attorneys fees. Contractor's duties and obligations under this section of the Agreement are material obligations guaranteed by the performance guarantee described in Section 12.

8.6 Prevailing Wages

Contractor hereby acknowledges that it has read completely and fully understands San Francisco Administrative Code Section 21.25-2 and agrees that this Agreement shall be subject to, and Contractor shall comply with, all applicable obligations and requirements imposed by that Section.

9. Responsibility for Equipment

City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its Employees, even though such equipment be furnished, rented or loaned to Contractor by City.

10. Independent Contractor; Payment of Taxes and Other Expenses

10.1 Independent Contractor. Contractor or any agent or Employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor or any agent or Employee of Contractor shall not have employee status with City, nor be entitled to

participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or Employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or Employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or Employee of Contractor.

Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement.

10.2 Payment of Taxes and Other Expenses. Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor or any of its agents or Employees is an employee of the City for purposes of collection of any employment taxes, any amounts offset from revenues paid by Contractor to the City under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority.

Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due to the City (again, offsetting any amounts already paid by Contractor that can be applied as a credit against such liability).

A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Contractor is an employee for any other purpose, then Contractor agrees to a reduction in City's financial liability so that City's total expenses under this Agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that Contractor was not an employee.

10.3 Contractor's Employees. Contractor shall be solely responsible for all matters relating to payment of Contractor's Employees, including compliance with Social Security, withholding and payment of any and all federal, state and local personal income taxes, disability insurance, unemployment, and any other taxes for such persons, including any related assessments or contribution required by law and all other regulations governing City Health Service System, vacation, holiday, retirement or other programs, nor, in the event that City terminates this Agreement shall Contractor have recourse of rights of appeal under City's rules and regulations which are applicable to employees.

10.4 Payroll and Taxation. Contractor shall make or cause to be made all necessary payroll deductions for disability and unemployment insurance, social security, withholding taxes and other applicable taxes, and prepare, maintain and file or cause to be filed all necessary reports with respect to such taxes or deductions, and all other necessary statements and reports pertaining to labor employed in the performance of this Agreement.

11. Required Insurance

Subject to approval by the City's Risk Manager of the insurers and policy forms, Contractor shall place and maintain throughout the Term of this Agreement, and pay the cost thereof, the following insurance policies:

11.1 Comprehensive general liability insurance with limits not less than $1,000,000 (such limit may be provided through a primary and excess policy) each Occurrence, combined single limit for bodily injury and property damage, or in such greater amount and limits as SFMTA may reasonably require from time to time, including coverage for contractual liability, personal injury, broadform property damage, products and completed operations, independent contractors (excluding towing and dismantling subcontractors), and mobile equipment.

11.2 Sudden and accidental pollution insurance with limits not less than $1,000,000 for each occurrence.

11.3 Comprehensive business/commercial automobile liability insurance with limits not less than $1,000,000 for each Occurrence combined single limit for bodily injury and property damage, including coverage for owned, non-owned and hired automobiles. If Contractor does not own or lease company vehicles that are subject to motor vehicle registration, then only non-owned and hired coverage is required.

11.4 Garage-keeper's legal liability insurance with limits not less than $5,000,000 (such limit may be provided through a primary and excess policy) for each Occurrence combined single limit for loss and damage to vehicles in Contractor's care, custody or control caused by fire, explosion, theft, riot, civil commotion, malicious mischief, vandalism or collision, with any deductible not to exceed $25,000 for each Occurrence. Contractor may insure or self-insure loss of non-automobile property in the care, custody, or control of the garage keeper with a limit of $5000.

11.5 Workers' Compensation Insurance, including Employers' Liability, with limits not less than $1,000,000 for each accident, covering all Employees employed by Contractor in the performance of this Agreement to provide statutory benefits as required by the laws of the State of California. Said policy shall be endorsed to provide that the insurer waives all rights of subrogation against the City.

11.6 Environmental impairment liability insurance with limits not less than $1,000,000 each occurrence, covering the sudden and accidental release of hazardous materials and the resulting costs of clean up.

Except as set forth above, any deductibles in the policies listed above shall not exceed $25,000 each occurrence. The insurance policies shall be endorsed to name as an additional insured the City and County of San Francisco and its respective departments, commissioners, officers, agents and employees.

The agreements between the Contractor and its towing and dismantling subcontractors (as applicable) shall require that reasonable insurance is maintained and that the City will be named as an additional insured on the general liability policy.

11.7 Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

(a) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(b) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance

applies separately to each insured against whom claim is made or suit is brought, but the inclusion of more than on insured shall not operate to increase the insurer's limits of liability.

(c) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

11.8 Regarding Workers' Compensation, Contractor hereby agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

11.9 Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

11.10 Subject to the provisions of Section 18.1, should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

11.11 Before commencing any operations under this Agreement, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages, including additional insured endorsements and the policy declaration page for any umbrella policies, set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

11.12 Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

12. Financial Assurances

12.1 Requirement to Provide Financial Guarantees

Upon the Effective Date of this Agreement, Contractor shall provide, and shall maintain for the time periods specified herein, financial instruments and funds described in this Section 12 as security to ensure Contractor's performance of all terms and conditions of this Agreement and to compensate for any damage to City property and/or other actual costs to City or for reimbursement to Customers for Contractor's violation of the terms of this Agreement, as further described below.

12.2 Letter of Credit and Performance Bond

12.2.1 Performance Guarantee. Upon the Effective Date of this Agreement, Contractor shall provide to the City, and shall maintain throughout the Term of this Agreement and for a period of at least ninety (90) days after expiration or termination of this Agreement, or until all of Contractor's obligations have been performed under this Agreement (including but not limited to investigation and remediation obligations under Appendices C and D), whichever date is later, a performance guarantee of two million dollars ($2,000,000), which shall consist of a confirmed, irrevocable Letter of Credit in an amount between one million dollars ($1,000,000) and two million

dollars ($2,000,000) and, if Contractor chooses to satisfy the performance guarantee, in part, with a Performance Surety Bond, a Performance Surety Bond of up to one million dollars ($1,000,000) in favor of the City and County of San Francisco, a municipal corporation, acting by and through its Municipal Transportation Agency (and during the Term of Appendix D, the Port of San Francisco), guarantying the faithful performance by Contractor of this Agreement and of the covenants, terms and conditions of this Agreement, including all monetary obligations set forth herein, and including liquidated damages and any dishonesty on the part of Contractor.

The City may draw upon such Performance Surety Bond and/or Letter of Credit in circumstances which include, but are not limited to:

(a) To ensure regulatory compliance in the event that Contractor receives a notice of violation or other regulatory order from a governmental or regulatory agency with jurisdiction over Contractor's operations or the Properties used by Contractor for the performance of this Agreement and Contractor does not achieve compliance with the notice of violation or order to the satisfaction of the issuing agency within the time specified by the agency or by the City if the agency does not specify a timeframe.

(b) To reimburse the City for any fine or other charge assessed against the City related to any notice of violation or other regulatory order issued to Contractor.

(c) To reimburse the City for costs associated with City's environmental assessments or corrective action related to Contractor's violation of any of the requirements of Appendix D, which may be performed at the City's sole discretion.

(d) To satisfy rental payment obligations for City-owned property licensed to Contractor in Appendix D .

(e) To satisfy fines assessed by City against Contractor pursuant to Appendix D of the Agreement.

(f) To compensate City for losses or damage to property caused by Contractor.

12.2.2 Performance Surety Bond/Letter of Credit Requirements. The Performance Surety Bond and/or Letter of Credit required by this Section 12 shall be issued on a form and issued by a financial institution acceptable to the City in its sole discretion, which financial institution shall (a) be a bank, insurance or trust company doing business and having an office in the State of California, (b) have a combined capital and surplus of at least $25,000,000, and (c) be subject to supervision or examination by federal or state authority. If Contractor defaults with respect to any provision of this Agreement, City may, but shall not be required to, make its demand under said Performance Surety Bond or Letter of Credit for all or any portion thereof, to compensate City for any loss or damage which City may have incurred by reason of Contractor's default or dishonesty, including (but not limited to) any claim for fines or liquidated damages; provided, however, that City shall present its written demand to said bank, insurance or trust company for payment under said Performance Surety Bond or Letter of Credit only after City first shall have made its demand for payment directly to Contractor, and five (5) full days have elapsed without Contractor having made payment to City.

12.2.3 Expiration or Termination of Letter of Credit.

In the event the City receives notice from the issuer of the Letter of Credit that the Letter of Credit will be terminated, not renewed or will otherwise be allowed to expire for any reason during the period from the commencement of the Term of this Agreement to ninety (90) days after the expiration or termination of this Agreement or the conclusion of all of Contractor's obligations under

the Agreement, whichever occurs last, and Contractor fails to provide the City with a replacement Letter of Credit (in a form and issued by a financial institution acceptable to the City) within ten (10) days following the City's receipt of such notice, such occurrence shall be an Event of Default as defined in Section 18 of this Agreement, and, in addition to any other remedies the City may have due to the default, including the right to terminate this Agreement, the City shall be entitled to draw down the entire amount of the Letter of Credit (or any portion thereof) and hold such funds in an account with the Treasurer in the form of cash guarantying Contractor's obligations under this Agreement under the terms of this Section 12. In such event, the cash shall accrue interest to the Contractor at a rate equal to the average yield of Treasury Notes with one-year maturity, as determined by the Treasurer. In the event the Letter of Credit is converted into cash pursuant to this paragraph, upon termination of this Agreement Contractor shall be entitled to a full refund of the cash (less any demands made thereon by the City pursuant to Section 12.2.4,) within ninety (90) days of the termination date, including interest accrued through the termination date.

12.2.4 Expiration or Termination of Performance Surety Bond. The term of the Performance Surety Bond shall apply for individual one-year periods, and may be extended by the insurance, bank or trust company by Continuation Certificate. The insurance, bank or trust company herein may, if it so elects, terminate its obligation under this bond by serving at least forty five (45) days written notice of its intention to do so upon the SFMTA. In the event the City receives notice from the issuer of the Performance Surety Bond that the Performance Surety Bond will be terminated, not renewed or will otherwise be allowed to expire for any reason during the period from the commencement of the Term of this Agreement to ninety (90) days after the expiration or termination of this Agreement or the conclusion of all of Contractor's obligations under the Agreement, whichever occurs last, and Contractor fails to provide the City with a replacement Performance Surety Bond (in a form and issued by a financial institution acceptable to the City) within ten (10) days following the City's receipt of such notice, such occurrence shall be an Event of Default as defined in Section 18 of this Agreement. However, neither nonrenewal by the insurance, bank or trust company, nor the failure or inability of the Contractor to file a replacement bond in the event of nonrenewal, shall itself constitute a loss to the City recoverable under the Performance Surety Bond or any renewal or continuation thereof. Insurance, bank or trust company's liability under the Performance Surety Bond and all continuation certificates issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in the Performance Surety Bond or in any additions, riders, or endorsements properly issued by the insurance, bank or trust company as supplements thereto.

12.2.5 Demands Upon Performance Surety Bond or Letter of Credit. City may use all or any portion of the Performance Surety Bond or Letter of Credit to compensate City for any loss or damage that it may have incurred by reason of Contractor's negligence or breach. Such loss or damage may include without limitation any damage to or restoration of the Properties for which Contractor is responsible, and claims for fines and/or liquidated damages. Should the City terminate this Agreement due to a breach by Contractor, the City shall have the right to draw from the Performance Surety Bond or Letter of Credit those amounts necessary to pay any fees or other financial obligations under the Agreement and perform the towing and storage services described in this Agreement until such time as the City procures another contractor and the agreement between the City and that contractor becomes effective. The Treasurer shall have sole authority and responsibility to make demands upon the Performance Surety Bond or Letter of Credit. The Treasurer shall not allow any demands made to the Performance Surety Bond or Letter of Credit pursuant to claims arising from Section 6(c) of Appendix C to exceed a combined outstanding amount of more than four hundred thousand dollars ($400,000.00) In addition, the Treasurer shall not allow any demands to be made to the Performance Surety Bond or Letter of Credit pursuant to claims arising from Section 6(b)

of Appendix C to exceed a combined outstanding amount of more than twice the amount of the current Base Fee established in Appendix D, Section 5, including all periodic CPI adjustments up to the date of the demand on the Performance Surety Bond or Letter of Credit. The Treasurer shall not allow any demands made to the Performance Surety Bond or Letter of Credit pursuant to claims arising from any section of the Agreement, excluding Appendices C and D, to exceed a combined outstanding amount of more than one million three hundred thousand dollars ($1,300,000.00).

12.2.6 Depletion of Performance Surety Bond or Letter of Credit. If any portion of a Letter of Credit or Performance Surety Bond is used by City, Contractor shall provide written proof that the Performance Surety Bond or Letter of Credit has been restored to its initial value, which shall require a replacement Performance Surety Bond or Letter of Credit in the face amount of the required Performance Surety Bond or Letter of Credit. Contractor's failure to do so within the time limits specified in Section 18.1.1(f) shall constitute an Event of Default as defined in Section 18 of this Agreement.

12.2.7 Dispute Resolution. In the event that a dispute arises between the City and Contractor concerning this Agreement or the use or maintenance of the Performance Surety Bond or Letter of Credit, Contractor may appeal to the Director of Transportation within fourteen (14) days of demand on the Performance Surety Bond or Letter of Credit with evidence supporting Contractor's claim for relief from the demand on the Performance Surety Bond or Letter of Credit. The Director of Transportation will respond within fourteen (14) days. Any failure of the Director of Transportation to respond within fourteen (14) days shall be deemed a rejection of Contractor's claim for relief from the demand on the Performance Surety Bond or Letter of Credit. Contractor's claim for relief from demands on the Letter of Credit and the Director of Transportation's response to such demand shall constitute the administrative remedy for Agreement interpretation described in Section 46 herein. Each party reserves its remedies in equity and law. No decision by the City concerning the Performance Surety Bond or Letter of Credit shall prevent Contractor from seeking restoration of the funds by appropriate legal action.

12.3 Maintenance Deposit. Upon execution of this Agreement, Contractor shall deposit with City the amount of one hundred thousand dollars ($100,000) as a maintenance deposit. These funds may be used by City when maintenance required by this Agreement is not done in a timely manner or in accordance with the standards of this Agreement. Contractor shall be responsible for replenishing this maintenance deposit fund to maintain a balance of one hundred thousand dollars ($100,000) within fifteen (15) days of any date that the fund falls below the minimum balance. Failure to replenish the maintenance deposit fund for more than forty-five (45) days shall be an Event of Default under this Agreement. Any interest accrued and earned on the maintenance deposit fund shall be retained by City.

12.4 Claims Fund. Contractor shall at all times maintain a Claim Fund for payment of Claims. Contractor shall maintain at least fifty-thousand dollars ($50,000) in the Claim Fund at all times. Contractor shall be responsible for replenishing this Claims Fund to maintain a balance of fifty thousand dollars ($50,000) within fifteen (15) days of any date that the fund falls below the minimum balance. Failure to replenish the Claims Fund for more than forty-five (45) days from the date that it falls below the minimum balance shall be an Event of Default under this Agreement.

12.5 Environmental Oversight Deposit. Upon the Effective Date of this Agreement, Contractor shall provide to the City, and shall maintain and replenish throughout the term of the property license set forth in Appendix D ("Pier 70 License") and for a period of at least ninety (90) days after termination or expiration of the Pier 70 License, an Environmental Oversight Deposit in the amount of ten thousand dollars ($10,000), which shall be deposited in an account specified by

City. If Contractor receives a notice of violation or other regulatory order from a governmental or regulatory agency with jurisdiction over Pier 70 and or its operations (other than from the Port of San Francisco), and such notice is not cured within fourteen (14) days, the City may draw from this deposit to reimburse the City for staff costs incurred by the City while inspecting site conditions and enforcing and administering the Hazardous Materials provisions of the Pier 70 License. If Contractor receives a notice of violation or other regulatory order from a governmental or regulatory agency with jurisdiction over the site and or its operations (other than from the Port of San Francisco), and such notice is cured within fourteen (14) days, the City may draw from this deposit in an amount not to exceed $500 to reimburse the City for staff costs incurred by the City. The City will submit an invoice to Contractor for any such costs, and Contractor will pay such invoiced amounts within thirty (30) days to replenish the Environmental Oversight Deposit. Contractor's failure to pay such costs within thirty (30) days, or to replenish the Environmental Oversight Deposit if drawn upon, will constitute an Event of Default.

13. Insurance and Performance Guarantee Requirements

All insurance policies, Performance Surety Bonds and Letters of Credit obtained pursuant to this Agreement shall be endorsed to provide that thirty (30) days prior written notice of cancellation, non-renewal or reduction in coverage or limits shall be given to SFMTA in the manner and at the addresses specified below (and during the term of Appendix D, to the Port of San Francisco in the manner and at the address specified in Appendix D).

Two copies of any Performance Surety Bond or Letter of Credit, and two copies of each original policy or policy endorsement of insurance shall be provided to SFMTA (and during the term of Appendix D, to the Port of San Francisco) upon the Effective Date of this Agreement, and complete copies of any insurance policies obtained pursuant to this Agreement shall be provided to SFMTA (and during the term of Appendix D, to the Port of San Francisco) if requested at any time.

13.1 Upon City's request, Contractor shall provide satisfactory evidence that Contractor has adequately provided for Social Security and Unemployment Compensation benefits for Contractor's Employees.

Contractor shall comply with the provisions of any insurance policy covering Contractor or the City, and with any notices, recommendations or directions issued by any insurer under such insurance policies so as not to adversely affect the insurance coverage.

14. Contractor's Representations and Warranties

Contractor hereby represents and warrants as follows:

14.1 Experience. Contractor is experienced in the operation and management of automobile towing and disposal services and hereby agrees to apply its best efforts and most efficient methods in performance of this Agreement.

14.2 Formation. Contractor is a duly formed, validly existing and in good standing limited liability company under the laws of the State of California.

14.3 Authority. Contractor has full power and authority (corporate or otherwise) to enter into this Agreement and to consummate the transactions contemplated by it. This Agreement has been duly authorized by all necessary action on the part of Contractor, and no other corporate or other action on the part of Contractor is necessary to authorize the execution and delivery of this Agreement.

14.4 Conflicts and Consents. The execution and delivery by Contractor of this Agreement and the performance by Contractor of the transactions contemplated by it will not violate

any federal, state or local law, rule or regulation, or conflict with or result in any breach or violation of, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or constitute an event or condition that would permit termination or acceleration of the maturity of, the Articles of Incorporation, bylaws or partnership agreement of Contractor (as applicable) or any indenture, mortgage, lease, agreement or other instrument or obligation to which Contractor is a party or by which it may be bound which would materially adversely affect the ability of Contractor to perform its obligations under this Agreement. No approval, authorization, consent or other order or action of, or filing or registration with, any person, entity or governmental authority is required for the execution and delivery by Contractor of this Agreement.

14.5 Conflict with Orders. The execution and delivery by Contractor or this Agreement will not conflict with any order, judgment or decree of any court, government, government agency or instrumentality, whether entered pursuant to consent to otherwise, by which Contractor may be bound or affected.

14.6 Litigation. There is no litigation, action, arbitration, grievance, administrative proceeding, suit or claim filed and pending, nor is there any investigation by a governmental agency of Contractor or any of its affiliates that, if adversely decided, could have a material adverse impact on Contractor's ability to perform its obligations under this Agreement.

15. Indemnification

Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including Employees of Contractor or loss of or damage to property, resulting directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, the use of Contractor's facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City. The foregoing indemnification does not include the limitations on Contractor's liability described in Appendix D, Sections 24.3 and 24.8.

In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

As to any intellectual property that Contractor provides to the City in the performance of this Agreement, Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons, arising as a consequence of the use by City of the intellectual property supplied by the Contractor, or any of its officers or agents.

16. Incidental and Consequential Damages

Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

17. Liability of City

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AMENDED AND RESTATED AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AMENDED AND RESTATED AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AMENDED AND RESTATED AGREEMENT.

18. Default; Remedies

18.1 Each of the following shall constitute an event of default ("Event of Default") under this Amended and Restated Agreement; provided, however, that with the exception of the Events of Default listed in Section 18.1.1 below, Contractor shall have thirty (30) days after the date of written notice of the default sent by City to cure the default before an Event of Default exists:

18.1.1 The following conduct by Contractor shall constitute an Event of Default at the time it occurs without a right to cure under this Section 18, and shall be grounds for termination pursuant to Section 19:

(a) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement: 5, 6, 11, 12.2.1, 13, 22, 28, 35 and 54.

(b) Substantial abandonment or discontinuance by Contractor, without the prior written consent of the City, of any or all of the services and operations required hereunder.

(c) Contractor's representation or warranty made pursuant to this Agreement which Contractor made knowing that it was not true and correct at the time when made.

(d) Failure of Contractor to replenish the maintenance deposit or Claims Fund required by Sections 12.3 and 12.4 and such failure continues for more than forty-five (45) days.

(e) Failure of Contractor to replenish the Environmental Oversight Deposit required by Section 12.5 and such failure continues for more than thirty (30) days.

(f) Failure to replace the Performance Surety Bond or Letter of Credit as required by Sections 12.2.3 and 12.2.5 within twenty (20) days of (i) City's receipt of notice of its termination or expiration, or (ii) use by City of the Performance Surety Bond or Letter of Credit, unless City's use is challenged pursuant to Section 12.2.6, in which event the twenty (20) days shall run from the date of the Director of Transportation's denial of the challenge, or fourteen (14) days from the date of the challenge, whichever is later.

18.1.2 Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement.

18.1.3 Contractor (A) is generally not paying its debts as they become due, (B) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (C) makes an assignment for the benefit of its creditors, (D) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property or (E) takes action for the purpose of any of the foregoing.

18.1.4 A court or government authority enters an order (A) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor's property, (B) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (C) ordering the dissolution, winding-up or liquidation of Contractor, or (D) levying of a writ of attachment or execution against any of Contractor's property.

18.1.5 Failure of Contractor to pay when due any other amount owing from Contractor to the City, including without limitation rents, taxes, fees or other charges, whether or not such amounts are related to this Agreement; provided, however, that if Contractor disputes the amount of any such obligation in good faith and is actively negotiating or litigating such dispute, Contractor's failure to pay such amount shall not constitute a default under this paragraph.

18.1.6 Failure of Contractor to abide by any of the terms or conditions of the Port MOU, set forth in Appendix C to this Agreement.

18.2 On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. City's right to termination for an Event of Default shall be subject to Contractor's opportunity to cure such Event of Default pursuant to the terms of Sections 18.1 and 19. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Agreement or any other agreement.

18.3 City shall have the right to offset from any amounts due to Contractor under this Agreement or any other Agreement between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Agreement or any other Agreement.

18.4 All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

19. Termination

The City shall have the right to terminate this Agreement after written notice to Contractor upon the occurrence of any Event of Default, provided, however, that Contractor shall have a period of ten (10)

days from the date of City's notice of intent to terminate to cure such default before City's termination for cause may become effective.

19.1 Termination Effective Upon Notice. Termination under this Section shall be effective immediately upon notice being given by SFMTA to Contractor and after the expiration of any applicable cure periods. Upon such termination, all rights, powers, privileges and authority granted to Contractor under this Agreement shall cease, and Contractor shall immediately thereupon vacate the Designated Facilities, except as may be permitted pursuant to Section 54 (Transition Period), below.

19.2 Termination Not Exclusive Remedy. The City's right to terminate this Agreement under this Section is not its exclusive remedy but is in addition to all other remedies provided to it by law or the provisions of this Agreement.

19.3 Duties Upon Termination. Upon termination of this Agreement, the City and Contractor shall promptly pay to the other, as soon as is determinable after the effective date of termination, all amounts due each other under the terms of this Agreement, and upon such payment neither shall have any further claim or right against the other, except as expressly provided herein. Upon the effective date of termination, Contractor shall deliver to the SFMTA the originals of all books, permits, plans, Records, licenses, contracts and other documents pertaining to Contractor's operation under this Agreement, any insurance policies, bills of sale or other documents evidencing title or rights of the City, and any and all other Records or documents pertaining to Contractor's operation under this Agreement, any insurance policies, bills of sale or other documents evidencing title or rights of the City, and any and all other Records or documents pertaining to the Designated Facilities, whether or not enumerated herein, which are requested by the City or necessary or desirable for the ownership and operation of the Designated Facilities, which are then in possession of Contractor. Contractor further agrees to do all other things reasonably necessary to cause an orderly transition of the management and operation of the services provided by Contractor under this Agreement without detriment to the rights of the City or to the continued operation of such services.

20. Provisions of Amended and Restated Agreement Surviving Termination or Expiration

This Section and the following Sections of this Agreement shall survive termination or expiration of this Amended and Restated Agreement: 1, 5, 6, 7, 9, 10, 12 (except for 12.2.5), 14, 15, 16, 17, 18.2, 18.3, 19.3, 20, 22.1, 23, 24, 25, 26, 29, 38, 39, 43, 46, 47, 48, 49, 53, 54, 55, 56 and 57; and Appendix A Sections 1.3(b), 4.1, 5.2, 12, 13.3, 15.1, 15.2, 15.7(1), 15.7(2), 15.10(7) and 15.11.

21. Conflict of Interest

Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provisions of §15.103 and Appendix C 8.105 of City's Charter and § 87100 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions.

22. Proprietary or Confidential Information

22.1 Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that to the extent permitted by law, all information disclosed by City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

22.2 Contractor understands and agrees that the City's Sunshine Ordinance (Administrative Code, Chapter 67) and the California Public Records Act (Gov. Code section 6250 *et seq.*), apply to the Agreement and all of its appendices, that these documents are not proprietary or confidential, do not constitute trade secrets, and that the City must disclose these documents to the public, upon request, without redaction, except for employee's personal information. Contractor shall cooperate with City in the compilation, copying and production of records in its custody that are subject to requests for public records. The City is not required to take any action, or to refuse to release information where to do so would violate applicable law. During the Term, the City will endeavor to provide Contractor reasonable notice of any request for public information that seeks disclosure of confidential or proprietary information that Contractor has provided to City under the Agreement and that Contractor has identified as confidential and proprietary, with the exception of this Agreement and its appendices. Contractor may at its option then take whatever legal steps it deems appropriate to protect said information from disclosure to the public, but the City shall have no further obligation to protect said information from disclosure. However, if the Contractor takes legal action to protect said information, and if the City is required to incur legal fees and costs in such legal action, and if the Contractor does not prevail in such legal action, Contractor shall pay all legal fees and costs that the City incurs as a result of such legal action. Contractor shall clearly identify to City all information that Contractor provides to City that it considers to be proprietary, trade secret or is otherwise protected from disclosure under the California Public Records Act, the City's Sunshine Ordinance and other applicable law.

23. Notices to the Parties

Any insurance certificates or notices required under Sections 11, 12, 13, 15, 18, 19, 46 or 52 of the Agreement must be sent by first class, certified U.S. mail, postage pre-paid. All other written communications, unless otherwise indicated elsewhere in this Agreement, may be by first class U.S. mail, by email, or by fax, and shall be addressed as follows, or to such other address as designated by the parties in writing:

To Contractor:

San Francisco AutoReturn
Attention: John Wicker, President and CEO
945 Bryant Street, Suite 350
San Francisco, CA 94103
Telephone: 415-575-2355
Facsimile 415-575-2375
Email: jwicker@autoreturn.com

To City:

San Francisco Municipal Transportation Agency
Attention: Lorraine Fuqua
1 South Van Ness Avenue, 8th Floor
San Francisco, CA 94103
Telephone: 415-701-4678

Facsimile: 415-701-4736

Email: lorraine.fuqua@sfmta.com

24. Ownership of Results

Any interest of Contractor or its Subcontractors, in the Records prepared by Contractor or its subcontractors in connection with services to be performed under this Agreement, shall become the property of and will be transmitted to City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities. To the extent that the use of proprietary software or other proprietary information or intellectual property is required to access or utilize the data contained in the Records, or that Contractor holds particular work practices or methods to be proprietary, Contractor hereby grants the City a perpetual, royalty-free, nonexclusive, nontransferable, limited license, to use and reproduce said proprietary information or intellectual property, solely for City's internal purposes related to the towing, storage, and disposal of abandoned and illegally parked vehicles.

25. Works for Hire

Subject to the limited license set out in Section 24 above, any artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, source codes, or any other original works of authorship of Contractor that are not Records, are proprietary to Contractor and shall not be considered works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of Contractor.

26. Audit and Inspection of Records

26.1 Records. Contractor shall maintain, in accordance with generally accepted accounting principles and business practices, all books, accounts and Records created in the performance of this Agreement in accordance with the requirements of Appendix A. Such books, accounts and Records shall be maintained throughout the Term of this Agreement at one of the Designated Facilities, or at Contractor's Headquarters Office. Records created or maintained in an electronic format shall be submitted monthly in an electronic format as specified by SFMTA, which may be an electronic database format or a static electronic format, such as PDF or an electronic format that attaches a date or time stamp to each document and record entry that cannot be erased or altered Contractor shall deliver said copy of the Records with the Monthly Management Report described in Appendix A, Section 13.

Except as otherwise specified herein, Contractor shall maintain Records related to this Agreement in a safe and secure location available for inspection and copying by City for a period of five (5) years following termination of this Amended and Restated Agreement.

26.2 City's Right to Inspect. Any duly authorized agent of City shall have the right to examine, at any time during normal business hours, all books, accounts and Records, including computer records, of the type described above.

26.3 Audit. Within sixty (60) days of the expiration or termination of the Agreement, an independent auditor approved by the SFMTA shall conduct an audit of those records pertaining to Contractor's performance during the final year of this Agreement, including a summary report of prior annual audits conducted pursuant to Appendix A, Section 12.6. Such audit shall include a review of all records involving the removal, impoundment and disposition of vehicles pursuant to

this Agreement during the previous and current audit periods. All costs of such audits shall be withdrawn from the Contractor Compliance Audit Fund, as specified in Section 12.6 of Appendix A. A certified copy of each such audit report shall be furnished promptly to SFMTA and the Controller not more than 120 days following the expiration of the Agreement.

26.4 Retention of Records. Contractor shall retain all records of subcontracts, Employee payroll and benefits, tax assessments and payments, and those records and reports described in Sections 10 and 26 of this Agreement for a period of not less than four (4) years from date of termination of this Agreement.

27. Subcontracting

Except as specifically provided in this Agreement, Contractor shall not enter into any subcontract for the performance of all or any part of this Agreement for the acquisition of towing services, security services, vehicle handling or disposal services, auctioneer or appraisal services, Customer relations services or with any PEO Contractor without the prior written consent of the City, which consent shall not be unreasonably withheld. Any attempt to enter into such a subcontract without such consent shall be null and void. Subject to the foregoing, this Agreement shall be binding upon, enforceable by, and shall inure to the benefit of any permitted subcontractor.

28. Assignment

Contractor shall not assign or otherwise transfer this Agreement or any of Contractor's rights, duties or interest under this Agreement without the prior written consent of the City. Any attempted assignment or transfer without such consent shall be null and void. Subject to the foregoing, this Agreement shall be binding upon, enforceable by, and shall inure to the benefit of the successors and permitted assigns of the Contractor.

29. Non-Waiver of Rights

The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

30. Earned Income Credit (EIC) Forms

Administrative Code Chapter 12O requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found.

30.1 Contractor shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty (30) days following the date on which this Amended and Restated Agreement becomes effective (unless Contractor has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Contractor; and (iii) annually between January 1 and January 31 of each calendar year during the Term of this Agreement.

30.2 Failure to comply with any requirement contained in Section 30.1 of this Agreement shall constitute a material breach by Contractor of the terms of this Agreement. If, within thirty (30) days after Contractor receives written notice of such a breach, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, Contractor fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to

completion, the City may pursue any rights or remedies available under this Agreement or under applicable law.

30.3 Any Subcontract entered into by Contractor shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this section.

30.4 Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12O of the San Francisco Administrative Code.

31. Minority/Women/Local Business Utilization; Liquidated Damages

31.1 Compliance. Contractor understands and agrees to comply fully with all applicable provisions of Chapter 12D.A ("Minority/Women/ Local Business Utilization Ordinance--IV") of the San Francisco Administrative Code set forth in the RFP, Contractor's Proposal and this Agreement, and agrees to include such provisions in all subcontracts (as defined in Section 27) made in fulfillment of the Contractor's obligations under this Agreement. Said provisions are incorporated by reference and made a part of this Agreement as though fully set forth herein. Contractor's willful failure to comply with Chapter 12D.A is a material breach of contract.

31.2 Enforcement. If Contractor willfully fails to comply with any of the provisions of Chapter 12D.A set forth in this Agreement pertaining to MBE or WBE participation, Contractor shall be liable for liquidated damages in an amount equal to Contractor's net profit on this Agreement, or 10% of the total amount of this Agreement, or $1,000, whichever is greatest. City may also impose other sanctions against Contractor authorized in Chapter 12D.A, including declaring the Contractor to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Contractor's MBE or WBE certification. City will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to §12D.A.16(B). By entering into this Agreement, Contractor acknowledges and agrees that any liquidated damages assessed by City shall be payable to City upon demand. Contractor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Contractor on any contract with City. Contractor agrees to maintain records necessary for monitoring its compliance with this Section 31 for a period of three (3) years following termination of this contract, and shall make such records available for audit and inspection by HRC or the Controller upon request.

31.3 Subcontracting Goals. The MBE/WBE subcontracting participation goal for this contract is 12% of Gross Revenues. Contractor shall fulfill this goal throughout the duration of this Agreement. Contractor shall not participate in any back contracting to the Contractor or lower-tier subcontractors, as defined in Chapter 12D.A, for any purpose inconsistent with the provisions of Chapter 12D.A, its implementing rules and regulations, or this Section.

31.4 Subcontract Language Requirements. Contractor shall include in all subcontracts with MBEs or WBEs made in fulfillment of Contractor's obligations under this Agreement, a provision requiring Contractor to compensate any MBE or WBE subcontractor for damages for breach of contract or liquidated damages equal to 5% of the subcontract amount, whichever is greater, if Contractor fails to comply with the requirements of this Section, unless Contractor received approval from City to substitute subcontractors or to otherwise modify the commitments in the bid or proposal. Such provisions shall also state that it is enforceable in a court of competent jurisdiction. Subcontracts shall require the subcontractor to maintain records necessary for monitoring its compliance with this Section 31 for a period of three (3) years following termination of this contract and to make such records available for audit and inspection by City upon request.

31.5 Payment of Subcontractors. Contractor shall pay its subcontractors within thirty (30) days after receiving an invoice or request for payment from a subcontractor, unless Contractor notifies City in writing within ten (10) working days prior to receiving payment from the City that there is a bona fide dispute between Contractor and its subcontractor, in which case Contractor may withhold the disputed amount but shall pay the undisputed amount.

32. Nondiscrimination; Penalties

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

32.2 Nondiscrimination in Benefits. Contractor does not as of the date of this Agreement and will not during the Term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where 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 or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

32.3 Subcontracts. Contractor shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

32.4 Condition to Contract. As a condition to this Amended and Restated Agreement, Contractor 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.

32.5 Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to §12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

33. MacBride Principles—Northern Ireland

Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this Agreement on behalf of Contractor acknowledges and agrees that he or she has read and understood this section.

34. Tropical Hardwood and Virgin Redwood Ban

Pursuant to § 804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

35. Drug-Free Workplace Policy

Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Contractor agrees that any violation of this prohibition by Contractor, its Employees, agents or assigns will be deemed a material breach of this Agreement.

36. Resource Conservation

Chapter 5 of the San Francisco Environment Code ("Resource Conservation") is incorporated herein by reference. Failure by Contractor to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

37. Compliance with Americans with Disabilities Act

Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

38. Sunshine Ordinance

38.1 Documents Subject to Disclosure by the City. In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public by the City upon request. Contractor acknowledges that this Agreement and all of its appendices are covered by this paragraph and are subject to disclosure without redaction, except for employee's personal information.

38.2 Documents Subject to Disclosure by Contractor. Contractor agrees that it shall comply with San Francisco Administrative Code § 67.29-7(c), the provisions of which are set out in full below:

In any contract, agreement or permit between the City and any outside entity that authorizes that entity to demand any funds or fees from citizens, the City shall ensure that accurate records of each transaction are maintained in a professional and businesslike manner and are available to the public as public records under the provisions of this ordinance. Failure of an entity to comply with these provisions shall be grounds for terminating the contract or for imposing a financial penalty equal to one-half of the fees derived under the agreement or permit during the period of time when the failure was in effect. Failure of any Department Head under this provision shall be a violation of this ordinance. This paragraph shall apply to any Agreement allowing an entity to tow or impound vehicles in the City and shall apply to any Agreement allowing an entity to collect any fee from any persons in any pretrial diversion program.

Contractor's compliance with Section 67.29-7(c) is a material term of the Agreement.

38.3 Public Records Requests from Public. If any member of the public communicates a public records request directly to Contractor, Contractor shall refer the requestor to SFMTA. In no event shall Contractor respond directly to a public records request or attempt to communicate a public records request to SFMTA on behalf of the requestor. SFMTA will work with Contractor, and Contractor shall cooperate with SFMTA to identify responsive records in Contractor's possession. If production of requested records involves significant staff time of Contractor, City in its sole discretion may elect to collect legally authorized fees from the requestor and credit some or all of the fees to Contractor.

39. Notification of Limitations on Contributions

Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, 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 the board of a state agency 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. Contractor 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. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Contractor further agrees to provide to City the names of each person, entity or committee described above.

40. Requiring Minimum Compensation for Covered Employees

Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Sections 12P.5 and 12P.5.1 of Chapter 12P are incorporated herein by reference and

made a part of this Amended and Restated Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Contractor's obligations under the MCO is set forth in this Section. Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

The MCO requires Contractor to pay Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Contractor's obligation to ensure that any subcontractors of any tier under this Amended and Restated Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.

40.1 Contractor shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

40.2 Contractor shall maintain employee and payroll records as required by the MCO. If Contractor fails to do so, it shall be presumed that the Contractor paid no more than the minimum wage required under State law.

40.3 The City is authorized to inspect Contractor's job sites and conduct interviews with employees and conduct audits of Contractor.

40.4 Contractor's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fails to comply with these requirements. Contractor agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

40.5 Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

40.6 Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

40.7 If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than $25,000, but Contractor later enters into an agreement or agreements that cause contractor to exceed that amount

in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed $25,000 in the fiscal year.

41. Requiring Health Benefits for Covered Employees

Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q.5.1 of Chapter 12Q are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

41.1 For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

41.2 Notwithstanding the above, if the Contractor is a small business as defined in Section 12Q.3(d) of the HCAO, it shall have no obligation to comply with this Section 41.1 above.

41.3 Contractor's failure to comply with the HCAO shall constitute a material breach of this Agreement. City shall notify Contractor if such a breach has occurred. If, within thirty (30) days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5(f)(1)-(5). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

41.4 Any Subcontract entered into by Contractor shall require the Subcontractor (unless that Subcontractor is exempt pursuant to Section 12Q.3) to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Contractor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.

41.5 Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Contractor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

41.6 Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

41.7 Contractor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

41.8 Contractor shall keep itself informed of the current requirements of the HCAO.

41.9 Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

41.10 Contractor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

41.11 Contractor shall allow City to inspect Contractor's job sites and have access to Contractor's employees in order to monitor and determine compliance with HCAO.

41.12 City may conduct random audits of Contractor to ascertain its compliance with HCAO. Contractor agrees to cooperate with City when it conducts such audits.

41.13 If Contractor is exempt from the HCAO when this Agreement is executed because its amount is less than $25,000 ($50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause Contractor's aggregate amount of all agreements with City to reach $75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Contractor and the City to be equal to or greater than $75,000 in the fiscal year.

42. First Source Hiring Program

a. Incorporation of Administrative Code Provisions by Reference

The provisions of Chapter 83 of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with, and be bound by, all of the provisions that apply to this Agreement under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 83.

b. First Source Hiring Amended and Restated Agreement

As an essential term of, and consideration for, any contract or property contract with the City, not exempted by the FSHA, the Contractor shall enter into a first source hiring a ("Agreement") with the City, on or before the effective date of the contract or property contract. Contractors shall also enter into an Agreement with the City for any other work that it performs in the City. Such Agreement shall:

(1) Set appropriate hiring and retention goals for entry level positions. The employer shall agree to achieve these hiring and retention goals, or, if unable to achieve these goals, to establish good faith efforts as to its attempts to do so, as set forth in the Agreement. The

Agreement shall take into consideration the employer's participation in existing job training, referral and/or brokerage programs. Within the discretion of the FSHA, subject to appropriate modifications, participation in such programs maybe certified as meeting the requirements of this Chapter. Failure either to achieve the specified goal, or to establish good faith efforts will constitute noncompliance and will subject the employer to the provisions of Section 83.10 of this Chapter.

(2) Set first source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the first opportunity to provide qualified economically disadvantaged individuals for consideration for employment for entry level positions. Employers shall consider all applications of qualified economically disadvantaged individuals referred by the System for employment; provided however, if the employer utilizes nondiscriminatory screening criteria, the employer shall have the sole discretion to interview and/or hire individuals referred or certified by the San Francisco Workforce Development System as being qualified economically disadvantaged individuals. The duration of the first source interviewing requirement shall be determined by the FSHA and shall be set forth in each Agreement, but shall not exceed 10 days. During that period, the employer may publicize the entry level positions in accordance with the Agreement. A need for urgent or temporary hires must be evaluated, and appropriate provisions for such a situation must be made in the Agreement.

(3) Set appropriate requirements for providing notification of available entry level positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of qualified economically disadvantaged individuals to participating employers. Notification should include such information as employment needs by occupational title, skills, and/or experience required, the hours required, wage scale and duration of employment, identification of entry level and training positions, identification of English language proficiency requirements, or absence thereof, and the projected schedule and procedures for hiring for each occupation. Employers should provide both long-term job need projections and notice before initiating the interviewing and hiring process. These notification requirements will take into consideration any need to protect the employer's proprietary information.

(4) Set appropriate record keeping and monitoring requirements. The First Source Hiring Administration shall develop easy-to-use forms and record keeping requirements for documenting compliance with the Agreement. To the greatest extent possible, these requirements shall utilize the employer's existing record keeping systems, be nonduplicative, and facilitate a coordinated flow of information and referrals.

(5) Establish guidelines for employer good faith efforts to comply with the first source hiring requirements of this Chapter. The FSHA will work with City departments to develop employer good faith effort requirements appropriate to the types of contracts and property contracts handled by each department. Employers shall appoint a liaison for dealing with the development and implementation of the employer's Agreement. In the event that the FSHA finds that the employer under a City contract or property contract has taken actions primarily for the purpose of circumventing the requirements of this Chapter, that employer shall be subject to the sanctions set forth in Section 83.10 of this Chapter.

(6) Set the term of the requirements.

(7) Set appropriate enforcement and sanctioning standards consistent with this Chapter.

(8) Set forth the City's obligations to develop training programs, job applicant referrals, technical assistance, and information systems that assist the employer in complying with this Chapter.

(9) Require the developer to include notice of the requirements of this Chapter in leases, subleases, and other occupancy contracts.

c. Hiring Decisions

Contractor shall make the final determination of whether an Economically Disadvantaged Individual referred by the System is "qualified" for the position.

d. Exceptions

Upon application by Employer, the First Source Hiring Administration may grant an exception to any or all of the requirements of Chapter 83 in any situation where it concludes that compliance with this Chapter would cause economic hardship.

e. Liquidated Damages

Contractor agrees:

(1) To be liable to the City for liquidated damages as provided in this section;

(2) To be subject to the procedures governing enforcement of breaches of contracts based on violations of contract provisions required by this Chapter as set forth in this section;

(3) That the contractor's commitment to comply with this Chapter is a material element of the City's consideration for this contract; that the failure of the contractor to comply with the contract provisions required by this Chapter will cause harm to the City and the public which is significant and substantial but extremely difficult to quantity; that the harm to the City includes not

only the financial cost of funding public assistance programs but also the insidious but impossible to quantify harm that this community and its families suffer as a result of unemployment; and that the assessment of liquidated damages of up to $5,000 for every notice of a new hire for an entry level position improperly withheld by the contractor from the first source hiring process, as determined by the FSHA during its first investigation of a contractor, does not exceed a fair estimate of the financial and other damages that the City suffers as a result of the contractor's failure to comply with its first source referral contractual obligations.

(4) That the continued failure by a contractor to comply with its first source referral contractual obligations will cause further significant and substantial harm to the City and the public, and that a second assessment of liquidated damages of up to $10,000 for each entry level position improperly withheld from the FSHA, from the time of the conclusion of the first investigation forward, does not exceed the financial and other damages that the City suffers as a result of the contractor's continued failure to comply with its first source referral contractual obligations;

(5) That in addition to the cost of investigating alleged violations under this Section, the computation of liquidated damages for purposes of this section is based on the following data:

A. The average length of stay on public assistance in San Francisco's County Adult Assistance Program is approximately 41 months at an average monthly grant of $348 per month, totaling approximately $14,379; and

B. In 2004, the retention rate of adults placed in employment programs funded under the Workforce Investment Act for at least the first six months of employment was 84.4%. Since qualified individuals under the First Source program face far fewer barriers to employment than their counterparts in programs funded by the Workforce Investment Act, it is reasonable to conclude that the average length of employment for an individual whom the First Source Program refers to an employer and who is hired in an entry level position is at least one year;

therefore, liquidated damages that total $5,000 for first violations and $10,000 for subsequent violations as determined by FSHA constitute a fair, reasonable, and conservative attempt to quantify the harm caused to the City by the failure of a contractor to comply with its first source referral contractual obligations.

(6) That the failure of contractors to comply with this Chapter, except property contractors, may be subject to the debarment and monetary penalties set forth in Sections 6.80 et seq. of the San Francisco Administrative Code, as well as any other remedies available under the contract or at law; and

Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of $5,000 for every new hire for an Entry Level Position improperly withheld from the first source hiring process. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors shall be made by the FSHA.

f. Subcontracts

Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of Chapter 83 and shall contain contractual obligations substantially the same as those set forth in this Section.

43. Prohibition on Political Activity with City Funds

In accordance with San Francisco Administrative Code Chapter 12.G, Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Agreement. Contractor agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit Contractor from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Contractor's use of profit as a violation of this section.

44. Preservative-treated Wood Containing Arsenic

Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Amended and Restated Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the 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, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor 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.

45. Modification of Amended and Restated Agreement

This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by Contractor and by the Director of Transportation, except where the approval of the Municipal Transportation Agency Board or the San Francisco Board of Supervisors is required by applicable law, in which case, the approval of those agencies shall also be required.

46. Administrative Remedy for Agreement Interpretation

Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to the Director of Transportation, who shall decide the true meaning and intent of the Agreement.

47. Agreement Made in California; Venue

The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

48. Construction

All paragraph, article, and section captions and headings contained in this Agreement are for reference and convenience only and shall not be considered in construing the scope or meaning of this Agreement. Unless this Agreement specifically provides otherwise, it is to be construed in the following manner.

48.1 Syntax. Whenever the context of this Agreement requires, the singular shall include the plural, the plural shall include the singular, the masculine shall include the feminine and the feminine shall include the masculine.

48.2 References. Unless otherwise indicated, references to Articles, Sections and subsections are to Articles, Sections and subsections in this Agreement.

49. Entire Amended and Restated Agreement

This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 45.

This Agreement contains the entire Agreement between the parties with respect to the subject matter of this Agreement and any prior Agreements, discussions or understandings, written or oral, are superseded by this Agreement and shall be of no force or effect. No addition or modification of any term or provision of this Agreement shall be effective unless set forth in writing and signed by the parties to this Agreement.

50. Compliance with Laws

Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time. Contractor shall comply and conform with all laws and all governmental regulations, rules and orders that may from time to time be put into effect relating to, controlling or limiting Contractor's performance under this Agreement or enjoyment of any rights or privileges granted hereby. Contractor shall secure all permits and licenses specifically required for Contractor's performance under this Agreement (copies of which shall be promptly provided to City), and shall comply with all applicable laws and regulations relating to labor employed in and relating to Contractor's performance under this Agreement. Contractor shall not use or occupy the Designated Facilities in an unlawful, noisy, improper or offensive manner and shall use its best efforts to prevent any occupancy of the Designated Facilities or use made thereof which is unlawful, noisy, improper or offensive or contrary to any law or ordinance applicable to them. Contractor shall not cause or maintain any nuisance in or about the Designated Facilities, and shall use its best efforts to prevent any person from doing so. Nor shall Contractor cause any rubbish, dirt or refuse to be placed in the streets, sidewalks or alleys adjoining the Designated Facilities or to accumulate in the Designated Facilities.

51. Services Provided by Attorneys

Any services required under this Agreement that are to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will be paid unless the provider received advance written approval from the City Attorney.

52. Unavoidable Delays

Any prevention, delay or stoppage in a party's performance of any part of this Agreement due to an Unavoidable Delay shall excuse the performance of the party affected for a period of time or otherwise in a manner that bears a causal relationship and is in proportion to any such prevention, delay or stoppage.

53. Severability

Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

54. Transition Period

54.1 Notwithstanding any other provision of this Agreement to the contrary, Contractor hereby agrees that it shall cooperate in good faith with City and with any contractor chosen by City pursuant to a competitive selection process to take over Contractor's obligations after the expiration of this Agreement, or any contractor designated by City to provide towing services following termination of this Agreement pursuant to §19 herein, for the smooth and efficient transfer of those functions.

54.2 Contractor agrees to take all actions as may be necessary or as the City may direct for the protection and preservation of any property related to this Agreement that is in the possession of Contractor and in which City has or may acquire an interest, including any environmental remediation required under Appendices C and D. Contractor acknowledges that City has a vested interest for payment of fees for vehicles that Contractor has towed and/or is storing, and Contractor shall not impair said interest and shall take all actions reasonably necessary to safeguard City's interest in said towed and stored vehicles.

54.3 Contractor shall remove any towed and/or stored vehicles from City property by the termination date and shall relocate said vehicles to a location approved by the City or (subject to City approval) authorize a successor contractor to serve as an agent of Contractor for purposes of conducting any lien sale auctions that may be required for disposal of such vehicles.

54.4 Contractor shall provide City or any successor contractor with all information necessary, in a form approved by the City, to facilitate retrieval by the registered owner of any vehicle upon which Contractor holds a lien.

54.5 Contractor agrees to assign all right, title and interest of Contractor in the 450 7th Street property to the City, subject to the payment terms specified in Appendix G, as part of the transition of towing operations to a successor towing services contractor.

55. Administration of Contract

This Agreement shall be administered by and for the City by SFMTA. The Executive Director/CEO of SFMTA shall, unless otherwise stated herein, have the authority to act for or on behalf of the City in the administration of this Agreement.

56. Required Actions

Contractor agrees to execute all instruments and documents and to take all actions as may be required or necessary in order to carry out the purposes and terms of this Agreement.

57. Non-impairment of City-Owned Towing Equipment and Facilities

Nothing contained in this Agreement shall be deemed to prohibit, limit or otherwise restrict the use and operation by City of City-owned towing equipment or storage facilities, or the procurement by City of towing services for City-owned vehicles.

58. Deleted by agreement of the parties.

59. Protection of Private Information. Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Contractor agrees that any failure of Contactor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.

60. Food Service Waste Reduction Requirements. Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars ($100) liquidated damages for the first breach, two hundred dollars ($200) liquidated damages for the second breach in the same year, and five hundred dollars ($500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision.

61. Graffiti Removal. 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. Contractor shall remove all graffiti from any real property owned or leased by Contractor in the City and County of San Francisco within forty eight (48) hours of the earlier of Contractor'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 a Contractor 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.).

Any failure of Contractor to comply with this section of this Agreement shall constitute an Event of Default of this Agreement.

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

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS AMENDED AND RESTATED AGREEMENT ON THE DAY FIRST MENTIONED ABOVE.

CITY

APPROVED:

NATHANIEL P. FORD, SR.
Executive Director/CEO
San Francisco Municipal Transportation Agency

Approved as to Form:

DENNIS J. HERRERA
City Attorney

By: _____
Mariam Morley
Deputy City Attorney

CONTRACTOR

By signing this Agreement, I certify that I comply with the requirements of the Minimum Compensation Ordinance, which entitles Covered Employees to certain minimum hourly wages and compensated and uncompensated time off.

I have read and understood paragraph 33, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.

JOHN WICKER
President and CEO
TEGSCO, LLC,
d.b.a. San Francisco AutoReturn
945 Bryant Street, Suite 350
San Francisco, CA 94103
Phone No.: 415-575-2355
Employer ID No.: 01-0688299

SFMTAB Resolution Number: 10-080

Date: 6/1/10

Attest: _____

Roberta Boomer, Secretary,
S. F. Municipal Transportation Agency Board

Board of Supervisors

Resolution No. 323-10
Dated: 7/29/10

_____
Clerk of the Board

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LIST OF APPENDICES

A. Scope of Work

B. Operations Plan

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APPENDIX A: SCOPE OF WORK

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APPENDIX A

SCOPE OF WORK

1. Tow Equipment Dispatch Requirements

1.1 Hours of Service

Contractor shall respond to all Tow Requests and shall intake and release towed vehicles twenty-four (24) hours per day, 365 days per year in accordance with the standards specified in this Agreement.

1.2 Central Dispatch

Contractor shall dispatch Tow Equipment from its Central Dispatch facility. Contractor shall provide dispatch staff to receive Tow Requests twenty-four (24) hours per day, 365 days per year. During Peak Towing Hours, a dispatch supervisor must be on duty to direct staff and address any issues or escalations raised by the City that relate to a Tow Request. At all times, Contractor must ensure that:

(1) Tow Request phone calls must be answered within thirty seconds or less with no busy signal for 95% of the calls and within 90 seconds for the remaining 5% of the calls during a given calendar month; and

(2) Tow Requests must be assigned to a subcontractor towing firm within five (5) minutes or directly to a Tow Car operator within ten (10) minutes.

1.3 Communications Equipment

(a) Equipment Requirements

Within thirty (30) days of the Effective Date of this Agreement, Contractor shall provide a dedicated telephone line to be used exclusively for communication between Central Dispatch and the City, and a minimum of two (2) two-way radios or equivalent equipment to be used as an alternative communications method.

(b) Audio Recordings

Contractor shall provide equipment that will create an audio recording with a time/date stamp of all Tow Requests communications by telephone between SFMTA and the Tow Desk and Contractor's Central Dispatch Facility. Contractor shall maintain such audio recordings for a minimum of 120 days. Upon City's request, Contractor shall provide City access to the audio recordings within twenty-four (24) hours for the purpose of reviewing or copying the recordings.

(c) Dispatch Tow Car Operators

Communication between Central Dispatch and towing subcontractors shall be by means of landline communications, radios, mobile telephones, or electronic two-way data terminals. Any other method of communication to be used between Central Dispatch and Tow Car operators must be approved by the City in writing.

2. Tow Request Response Time Requirements

2.1 Routine Requests

(a) Scheduled and Dispatch Tows

Upon receiving a Tow Request for a Scheduled Tow or Dispatch Tow Contractor shall be on site with the appropriate Tow Equipment for the vehicle type to be towed, or with Tow Equipment specifically requested by City in the Tow Request, within thirty-five (35) minutes of a Dispatch Tow Request during Peak Towing Hours and within twenty-five (25) minutes at all other times, or within ten (10) minutes of the time designated for initiation of a Scheduled Tow. Contractor may notify City that it is requesting an extension of time of up to fifteen (15) minutes to process a Scheduled or Dispatch Tow request for reasons beyond the Contractor's control, which are defined as traffic congestion or travel distance, and the City shall inform Contractor if the request for extension of time is denied. Contractor shall respond within the applicable time limit for at least 94% of the Dispatch Tows performed in a given calendar month.

(b) Abandoned Vehicle Tows

Contractor must respond to each Abandoned Vehicle Tow Request within twenty-four (24) hours unless otherwise specified in the Tow Request.

2.2 Expedited Tow Response Time Requirement

City may specify that an Expedited Tow is required in the Tow Request. During Peak Towing Hours, Contractor shall respond to a Tow Request for an Expedited Tow within thirty (30) minutes of the Tow Request. Contractor may notify City that it is requesting an extension of time of up to fifteen (15) minutes to process an Expedited Tow request for reasons beyond the Contractor's control, which are defined as traffic congestion or travel distance, and the City shall inform Contractor if the request for extension of time shall be denied . Contractor shall respond within the applicable time limit for 100% of the Expedited Tows performed in a given calendar month.

2.3 Regional Sweeps

Contractor shall participate in Regional Sweeps requested by SFMTA or SFPD as a part of its regular towing services. SFMTA or SFPD shall notify Contractor at least forty-eight (48) hours in advance (with seventy-two (72) hours advance written notice provided when possible) of the date for a Regional Sweep, and shall inform Contractor of the number of Tow Cars required, the location, and the time that tows are to begin. City reserves the right to modify and/or expand Regional Sweep programs, and shall notify Contractor of these modifications and/or expansions no later than forty-eight (48) hours in advance of the date of a Regional Sweep. Regional Sweeps are subject to the performance standards of Scheduled Tows under this Agreement.

2.4 Courtesy Tows and Roadside Service

At the request of City, Contractor shall remove any disabled SFMTA or SFPD vehicle or render timely roadside assistance, including but not limited to starting vehicles, delivering gasoline and changing flat tires. These requests for towing or roadside assistance shall be provided within thirty-five (35) minutes of City's request. Contractor may notify City that it is requesting an extension of time of up to fifteen (15) minutes to process a Courtesy Tow request for reasons beyond the Contractor's control, which are defined as traffic congestion or travel distance, and the City shall inform Contractor if the request for extension of time shall be denied. The costs for these services shall not be charged to City, nor may Contractor pass the cost of these services to its subcontractors. Should Contractor fail to respond to a request in accordance with this Section, City may elect to acquire the services from another source and Contractor shall be responsible for City's direct and indirect costs in acquiring the requested services from another source.

2.5 Failure to Respond

In the event that Contractor fails to respond and/or fails to furnish necessary Tow Equipment at the designated point of tow within the time periods specified in this Agreement, the City shall have the right, by whatever means appropriate, to remove or cause the removal of the vehicle which was the subject of the Tow Request and transport it to the Contractor's storage facility, whereupon Contractor shall process and handle such vehicle in accordance with all requirements of this Agreement. In such event, Contractor shall be responsible for reimbursing City's direct and indirect costs for removing the vehicle, excluding subsequent damage caused by the alternate towing service provider.

2.6 Tow Service Plan

Contractor shall submit a Tow Service Plan to the City describing how it will deploy its subcontractors in sufficient detail to allow City to determine that Contractor will meet service requirements specified in this Agreement. This plan shall be approved and adopted as part of the Operations Plan, as provided in Section 14 of this Appendix A.

3. Vehicle Intake Requirements

3.1 Tow Data

Contractor shall ensure that a record of each Dispatch Tow is created in ADS by means of a Tow Car data terminal or by computer at Central Dispatch within five (5) minutes of receiving the tow request and the record must be created in TVMS within fifteen (15) minutes of completion of the tow. A record of each Scheduled Tow shall be created in TVMS within fifteen (15) minutes of completion of the tow. In addition, within fifteen (15) minutes of the initial arrival of a towed vehicle at a Designated Facility, Contractor shall record, at a minimum, the following data:

(1) the time the initial call for service was requested

(2) the time the Tow Car arrived on the scene of the tow

(3) the time the Tow Car arrived at the vehicle intake facility.

(4) Contractor shall meet these timing requirements in ninety percent (90%) of all tows within any reasonable audit period identified by City.

3.2 Valuation

Contractor shall have each impounded vehicle assigned a Lien Category (Lien 1, Lien 2 or Lien 3 Vehicle) by trained personnel as soon as possible during vehicle intake, but in no event later than seventy-two (72) hours after the vehicle's initial arrival at a Designated Facility. Contractor shall assign a value to each vehicle under penalty of perjury as required by California Vehicle Code Section 22670(b). After Contractor initiates the lien process for a vehicle with the DMV, Contractor's valuation and classification of the vehicle under this Section 3.2 shall be subject to later adjustment only as directed by, or with the approval of, the City's designated Contract Monitor in compliance with the Vehicle Valuation Standards Plan as defined in Section 8.8(b). In no event shall any impounded vehicle be pulled from a pending auction for the purpose of reclassifying the vehicle after the auction has begun.

3.3 Inspection

(a) VIN

Contractor shall visually inspect any vehicle for which a lien is requested to confirm and record the VIN of each vehicle, and include the VIN in its lien request to the DMV within seven (7) days. Contractor shall notify the SFPD within twenty-four (24) hours of becoming aware of any vehicle in its possession for which the license plate and the VIN do not match. Exceptions to the deadline for collecting the VIN include:

(1) Vehicles subject to SFPD investigative holds.

(2) Vehicles identified as NO ID vehicles pursuant to Section 4.5 of this Appendix A which require SFPD inspection.

(3) Other cases of extenuating circumstances as approved by the City.

(b) Personal Property

During intake inspection, personal property in the vehicle of more than nominal value that is visible from the exterior without opening any locked compartment shall be inventoried, and as part of the inventory Contractor shall record whether or not the vehicle has a locked storage compartment. This information shall be recorded in the TVMS system and/or the vehicle inventory forms that are kept on file at the Primary Storage Facility. Contractor, SFMTA, DPH and SFPD shall endeavor to keep the vehicle locked to the maximum extent possible during the towing and storage process. Contractor may remove and separately store personal property from the vehicle for security or other reasons as necessary.

3.4 Digital Photo Recording

Contractor shall have cameras at all vehicle intake facilities and shall take photos of all four (4) sides of the exterior of each vehicle the first time that it is brought into any Designated Facility, except for over-sized

vehicles that cannot be brought into the Secondary Storage Facility through the main entrance and must enter the facility from the secondary entrance . These images shall be stored electronically and in a manner that allows prompt retrieval within one (1) working day of any City request. City agrees that the requirements of this Section 3.4 may be satisfied by extracting still images from continuous video footage.

4. Vehicle Handling Requirements

4.1 Improper Disposal of Vehicles

If, in violation of applicable law or this Agreement, Contractor releases, sells, disposes of, or otherwise loses possession of or is unable to locate within its possession any vehicle that it has towed or impounded under this Agreement, notwithstanding any other criminal or civil penalties levied by a court of law, Contractor shall have sixty (60) days to resolve any Claim filed by the vehicle owner, and must submit any proposed Claim settlement to City for approval prior to finalizing such Claim. If Contractor fails to satisfactorily resolve such Claim within sixty (60) days, City may require Contractor to pay to the vehicle owner the blue book value of the vehicle at the time of sale, destruction or loss of the vehicle as determined by the City. If City directs Contractor to resolve a Claim after sixty (60) days by paying the blue book value of a vehicle to the owner, City may assess liquidated damages against Contractor in accordance with Section 15 of this Appendix A. This contractual remedy shall not preclude the vehicle owner from taking any other appropriate legal action against the Contractor.

4.2 Vehicle Drop

The Tow Car operator shall release a vehicle without assessing any towing charges upon request of the SFMTA or SFPD officer or DPH employee present at the site of the tow. The City officer or employee may require release of the vehicle pursuant to this Section 4.2 when the owner or operator of the vehicle is present to claim the car before all of the following three (3) events occur:

(1) The towing apparatus is completely attached to the vehicle in a manner consistent with the proper use of the Tow Car equipment and in accordance with industry standards, and

(2) All required data has been collected, and

(3) The Tow Car has been put in gear by the operator and has started to drive away.

The City may assess liquidated damages against Contractor pursuant to Section 15 of this Appendix A for failure to release a vehicle as required by this Section 4.2. In addition, the Contractor shall reimburse the owner or operator of the vehicle towed in violation of this Section all expenses incurred by the owner or operator to recover the vehicle plus $100 per occurrence.

4.3 Personal Property Releases

(a) Standard for Release

Contractor shall only release personal property found within any vehicle in its custody when it is satisfied that the claimant is entitled to access the vehicle and its contents and the vehicle is not subject to a Police or Administrative Hold.

(b) Vehicles Subject to Hold

No person shall be allowed to retrieve personal property from a vehicle subject to an Investigative or Administrative Police Hold without the prior written authorization of the SFPD.

(c) Personal Property Release

A personal property release allows the claimant to enter the vehicle, with the supervision of Contractor, to obtain property from the towed vehicle. Contractor's supervision shall include preparing a written inventory of the items removed by the claimant, but Contractor shall have no responsibility for assisting the claimant to remove personal property from the vehicle. Contractor shall require the claimant to sign the inventory statement listing the item(s) they removed from the vehicle, and shall file the personal property release data collected in the TVMS system or in a paper file with a file name cross referencing the Tow Request ID in the TVMS.

4.4 Retrieval Requirements from Secondary to Primary Storage Facility

If the Customer's vehicle is stored at the Secondary Storage Facility, Contractor shall provide either a free shuttle service enabling a Customer who appears at the Primary Storage Facility to retrieve a vehicle directly from the Secondary Storage Facility, one-way taxi fare for the Customer between the Primary Storage Facility and the Secondary Storage Facility, or free Tow Car service to tow the vehicle back to the Primary Storage Facility. In all cases, the vehicle must be released to the Customer within one (1) hour of the Customer's payment of fees at the Customer Service Center, with the exception of the categories of vehicles listed in Section 11.1(c)(ii).

4.5 No ID Vehicles

(a) NO ID Designation

All vehicles with no visible VIN shall be impounded under a "NO ID" number and shall be designated as a vehicle subject to Investigative Police Hold and held for inspection by the SFPD Auto Detail regardless of which City agency initiated the Tow Request. NO ID vehicles shall be included in regular reports to the SFPD of Police Hold vehicles as specified in Sections 4.6(d) and 13 of this Appendix A. Contractor shall keep NO ID vehicles within the NO ID area (excluding oversized vehicles), with the exception that Contractor shall move a NO ID vehicle out of the NO ID area within twenty-four (24) hours of receiving a request to do so by the SFPD.

(b) NO ID Procedure

If a VIN is found following inspection by the SFPD, Contractor shall follow applicable lien sale provisions of the Vehicle Code for processing that vehicle. Otherwise, Contractor shall designate the vehicle as an "Unable to Identify" or "UTID" vehicle and, after receipt of a written release by the SFPD (DMV Form 462, "Public Agency Authorization of Disposal of Vehicle" or successor form), such UTID vehicle shall be disposed of as required by the Vehicle Code and in accordance with instructions on DMV Form 462 or successor form.

(c) SFPD Access to NO ID Vehicles

Contractor shall allow SFPD personnel with written authorization from the Chief of Police or an officer designated by the Chief of Police to remove parts from any NO ID vehicle, except as prohibited by Appendices B, C and D.

4.6 Procedures for Vehicles Impounded by the SFPD

(a) Investigative Police Hold Vehicles

The SFPD may designate any vehicle for which it has made a Tow Request as an Investigative Police Hold vehicle. Investigative Police Hold vehicles shall be stored in a segregated, secure area, which may be located in a Designated Facility. Within ninety (90) days of the Effective Date of this Agreement, Contractor shall provide secured and fenced Investigative Police Hold storage locations at the Designated Facilities which shall include the following features:

(1) A vehicle inspection area with six (6) indoor bays that contain car lifts, air compressors, and access to 220V electricity at the Primary Storage Facility.

(2) An office area with two (2) phone lines dedicated for use by SFPD personnel (upon request of the SFPD) at the Primary Storage Facility.

(3) Indoor space for at least twenty-five (25) NO ID vehicles; and

(4) Secured indoor space for at least 100 Investigative Police Hold vehicles; and

(5) Secured outdoor space for at least 175 Investigative Police Hold vehicles; and

(6) Contractor shall provide a covered storage space that holds at least fifty (50) vehicles secured for SFPD investigations at the Primary Storage Facility that meets with the approval of the SFPD. The SFPD has approved the following arrangement: Storage space for twelve (12) vehicles is located behind a secure fence under the freeway between columns R58 and R56. Additional space that can accommodate at least 38

vehicles is provided by a secure fence that will run from in front of the 6 bays to the carwash building, and from the carwash building to the fence line across from R56. Any change to this configuration must be approved, in advance and in writing, by the SFPD.

No person shall be allowed access to an Investigative Police Hold vehicle or retrieve personal property from such vehicle without written authorization from the SFPD. If the SFPD designates an Investigative Police Hold vehicle as an evidentiary vehicle at the time of the Tow Request, Contractor shall ensure that the towing and storage of the vehicle is conducted in accordance with any standards for handling and preservation of evidence provided to Contractor by the SFPD in writing. Contractor shall maintain the Investigative Police Hold areas in a manner which ensures its ability to locate vehicles requested by SFPD within one (1) hour of SFPD's request. Contractor may, from time to time, request training for Tow Car operators and Employees for the handling of evidentiary vehicles from the SFPD. Contractor shall submit Police Department Procedures to the City describing in detail how it will process Investigative Police Hold vehicles to meet service requirements specified in this Agreement. These procedures shall be approved and adopted as part of the Operations Plan, as provided in Section 14 of this Appendix A.

(b) Release

Contractor shall not release or allow parts to be removed from any vehicle towed by the SFPD without a written release authorization from the SFPD. The SFPD will provide to Contractor a standard form to be used for all written release authorizations and a list of individuals authorized to sign vehicle and personal property releases, including exemplars of those individuals' signatures. Contractor may not release an Investigative Police Hold vehicle without a release form signed by an authorized individual as designated by the SFPD. Contractor shall inform the Customer that release of a vehicle subject to Police Hold may only be obtained by going to a SFPD station to request that the vehicle be released.

(c) Recovery of Stolen Vehicles

Recovered stolen vehicles may only be released upon presentation of SFPD Form 425 or as otherwise specified by SFPD in writing. Contractor shall cooperate with City in the coordination of electronic information between DMV and City, between City agencies, and between Contractor and City for the purpose of early identification of stolen vehicles and prompt notification of the owner. Procedures for waiver and reimbursement of towing and storage charges for stolen vehicles are described in Section 12.2(a) of this Appendix A.

(d) Reporting

(i) Reports Required

Contractor shall submit to the SFPD a weekly report listing all Investigative Police Hold vehicles that are currently being stored by Contractor in accordance with the requirements of Section 13 of this Appendix A, delivered to the person designated by the SFPD as the inspector in charge of auto investigative holds. Contractor shall issue reports to SFPD personnel designated by the Chief of Police in writing, the Director of SFMTA or her or his designee, and the SFMTA Contract Administrator upon occurrence of the following events:

(1) A "300 vehicle warning" notice on each day that the number of Investigative Police Hold vehicles stored by Contractor exceeds 300 vehicles; and

(2) An inventory report of Investigative Police Hold vehicles on each day that the number of Investigative Police Hold vehicles stored by Contractor exceeds 325 vehicles.

(ii) Police Hold Storage Charges

On each day or portion of a day that the Contractor has more than 350 Investigative Police Hold vehicles in storage, Contractor may charge the SFPD a daily Investigative Police Hold storage fee per vehicle, as further described in Section 12.2(b) of this Appendix A.

4.7 Administrative Hold Procedures

(a) Administrative Hold

SFMTA or the SFPD may designate a vehicle as an Administrative Hold vehicle. Contractor shall identify and track Administrative Police Holds as either "STOP" holds or "Traffic Administration" holds. Vehicles subject to Administrative Hold by the SFPD or the SFMTA shall not be processed or otherwise treated as Investigative Police Hold vehicles.

(b) Release Restrictions

Administrative Hold vehicles that are impounded in accordance with the provisions of the Vehicle Code, including Administrative Holds resulting from the SFPD's STOP Program, shall not be released until Contractor receives written authorization for the release by the SFPD. Contractor may proceed with the lien sale of the vehicle in accordance with all applicable lien sale requirements, without written SFPD release authorization. SFPD STOP Administrative Hold vehicles must be held for at least thirty (30) days prior to lien sale.

(c) Administrative Hold Reports

Within twenty-four (24) hours of a request from SFMTA or SFPD, Contractor shall produce a report of SFMTA and SFPD Administrative Holds that lists the City employee and department requesting the hold for each vehicle subject to Administrative Hold.

5. Customer Service

Contractor shall interact with Customers who contact Contractor for the purpose of retrieving towed vehicles in person, by phone using an interactive telephone answering system ("IVR") and live operators, and by internet. When a Customer makes an inquiry of Contractor by any means of communication, Contractor shall provide the Customer with accurate and timely information regarding their rights with respect to the towed vehicle under this Agreement and all applicable federal, state and local laws and regulations. Contractor shall at a minimum implement the Customer service activities described in this Agreement. All materials created by Contractor which are intended for use by Customers, whether in written, electronic or audio format, shall be made available in Spanish, spoken Cantonese and written Chinese. Contractor shall also make best efforts to provide bilingual staff to assist Customers in the Mandarin, Russian and Vietnamese languages.

5.1 Customer Intake and Processing

(a) Telephone System

Contractor shall establish and maintain one (1) customer service phone line that the City or the public may call for information regarding towed vehicles. This phone line shall be independent of the phone line used for requests for Dispatch Tows. Contractor shall make information available to City and Customers through both an automated IVR, as further described in Section 6.3 of this Appendix A, and through live operators as described in Section 5.1(b) below. The automated IVR and call distribution system to live operators must have sufficient lines, instruments, hardware, software, and overflow safeguards to meet the service requirements of this Agreement.

(b) Live Operators

Contractor's telephone operators must be available to respond to calls from the public twenty-four (24) hours per day, 365 days per year. During each monthly reporting period, at least ninety-five percent (95%) of all customer service calls received during Peak Service Hours must reach a live operator within three (3) minutes of request; of the remaining five percent (5%) of Peak Service Hour customer service calls, at least four percent (4%) must reach a live operator within ten (10) minutes of request. At all other times, at least eighty percent (80%) of all customer service calls must reach a live operator within three (3) minutes of request; of the remaining twenty percent (20%) of customer service calls, at least nineteen percent (19%) must reach a live operator within ten (10) minutes of request during the monthly reporting period.

(c) In-Person Customer Service

(i) Facility

Contractor shall operate a Customer Service Center that is open to the public twenty-four (24) hours a day, 365 day per year. The Customer Service Center shall have equipment that records the time that each Customer enters the waiting area and how long they wait for service at the service window. Contractor shall store this data and summarize it in the Customer Service reports required by subsection 5.1(c)(v). In all cases, a vehicle must be released to a Customer within one (1) hour of the Customer's completion of all payment and documentation requirements for vehicle release.

(ii) Staffing

During Peak Service Hours, Contractor shall maintain adequate and sufficiently trained staff to simultaneously serve six (6) Customers, including "quick service" window(s), in accordance with the standards set forth in this Agreement. Wait times for ninety-five percent (95%) of all customers served in person shall be no longer than ten (10) minutes.). Contractor shall cross-train all personnel so that window staff are trained to answer telephone calls if they are not assisting a Customer in person and call volumes require additional telephone operators. Telephone operators shall be trained to assist window staff when walk-in wait times exceed ten (10) minutes and windows are available. All Employees of Contractor who have regular, continuous contact with members of the public shall be neat in appearance and courteous to the public.

(iii) Customer Service Representative

Contractor shall provide a Customer Service Representative in addition to the regularly scheduled service window staff and telephone operators. An appropriately trained Customer Service Representative shall be on duty during the hours of 7:00 a.m. through 7:00 p.m., Monday through Friday, excluding City holidays, to assist Customers apart from normal window service, including but not limited to escalated service inquiries, suggestions, Complaints, assistance to disabled Customers and other out-of-the-ordinary Customer needs. The designated Customer Service Representative may assist Customers at a window or assist telephone callers while not occupied with escalated service inquiries, so long as service level requirements for phone and walk-in service as defined in this Section 5 are met.

(iv) Self-Service

Contractor shall provide Customers who use the self-service phone system and the self-service web site access to a special "quick service" window(s) or self-service kiosk(s) for expedited service.

(v) Reports

Contractor shall submit a monthly Customer Service Report that shows window staffing patterns, average wait times for Customers, and number of Customers served by hour.

(d) Customer Service via Internet

Contractor shall create and maintain an internet site that provides general information to the Customer, including the ability to ascertain the status of a specific towed vehicle and to make payments of Mandatory Fees with a credit card. Contractor's internet site shall generally be available twenty-four (24) hours a day, 365 days per year. Internet site maintenance and down-time should be scheduled between the hours of 12:00 a.m. and 6:00 a.m., except as otherwise necessary. City may assess liquidated damages pursuant to Section 15 of this Appendix A for failure to meet these standards; however Contractor may request a waiver of liquidated damages in advance of maintenance that must be performed outside the hours of 12:00 a.m. to 6:00 a.m.. Detailed specifications and requirements for the internet site are set forth in Section 6.4 of this Appendix A.

(e) Customer Service Manual

Within forty-five (45) days of the Effective Date of the Agreement, Contractor shall create a Customer Service Manual for Employees describing the policies and procedures for assisting Customers with vehicles towed under this Agreement. This manual shall be a reference for Contractor staff and subcontractors. The Customer Service Manual shall include, but is not limited to Employee training, guidelines for dissemination of information to the public, specifications for the Customer Service Center, cleanliness and safety standards for all facilities, and procedures for solicitation of feedback from Customers served. The Customer Service Manual shall be approved and adopted as part of the Operations Plan as provided in Section 14 of this Appendix A.

5.2 Complaints and Claims

(a) Claims Procedure

Contractor shall establish a procedure by which persons whose vehicles have been towed and/or stored ("Claimants") may file a Claim against Contractor. Contractor shall respond to all Claims within fourteen (14) days of receipt of Claim, either to accept, deny or request further information for investigation. Contractor shall endeavor to resolve each Claim within ninety (90) days of receipt from Claimant, and shall resolve all Claims within six (6) months unless (i) such Claim is abandoned by the Claimant's failure to respond to Contractor's communication for a period of thirty (30) days, or (ii) the Claim is filed in court. Contractor shall in all cases endeavor to resolve Claims fairly and expeditiously. Contractor shall designate a Claims Manager who shall supervise Contractor's Claims procedures and shall be available during regular business hours to discuss Claims with Claimants in person or by telephone. Contractor shall maintain records of all Claims filed and of all correspondence with Claimants, denials of Claims, settlement offers and amounts paid on Claims.

(b) Complaint Procedures

Contractor shall establish a procedure by which Customers ("Complainants") may submit Complaints about Contractor's performance of the services under this Agreement. Contractor shall make available to Customers a Complaint Form, which shall include a self-addressed pre-paid postage envelope. Contractor's Complaint procedure shall allow Complaints to be submitted by mail, fax or internet. Customers shall be able to request a Complaint Form by telephone, fax, in person or by email. Contractor shall record the name, telephone number, and address of each Complainant and the details of each Complaint. Contractor shall respond to all Complaints, regardless of origin of request for service (by mail, phone, in person or by internet) within seven (7) days of receipt of Complaint.

(c) Claims/Complaint Status Reports

Contractor shall submit a monthly Claims/Complaint Status Report that contains the following information:

(1) Claim/Complaint tracking number

(2) Name of Claimant/Complainant

(3) Date Claim/Complaint received

(4) Name of Employee who processed Claim/Complaint

(5) Brief description of Claim/Complaint

(6) Estimated value of Claim, when available

(7) Verified amount of Claim

(8) Status of Claim/Complaint

(9) Average Claim/Complaint resolution time

(10) Brief description of Claim/Complaint resolution

(11) Date of resolution of Claim/Complaint

Contractor shall deliver reports regarding Claims and Complaints to the City in accordance with the reporting requirements of Section 13 of this Appendix A. Contractor also shall retain any supporting documents submitted with a Claim or Complaint in accordance with Record retention requirements of this Agreement. Contractor shall respond to City requests to review Records related to Claims and Complaints within seven (7) days. Contractor shall track Complaints and Claims using both paper forms and electronic records. Using electronic records, Contractor shall provide the City with supplemental, specialized reports regarding any Complaint or Claim upon request within seven (7) days.

(d) Claims/Complaint Processing Plan

Contractor shall provide the City with its Claims/Complaint Processing Plan, along with the form of Complaint and Claim forms to be used under this Agreement, within forty-five (45) days of the Effective Date of this Agreement. This plan shall be approved and adopted as part of the Operations Plan as provided in Section 14 of this Appendix A.

5.3 Dissemination of Information to the Public

(a) Posted Information

The Contractor shall distribute the following information to its towing subcontractors and make available on its internet site and in the Customer Service Center, or in a different location as specified below, that are accessible to the public in a conspicuous location:

(1) Statement that a complete copy of this "Tow Agreement with the City and County of San Francisco" is available for review on the internet (including the URL for the internet site) or may be obtained at the same maximum per-page costs for copies which the City makes available to the public under the Sunshine Ordinance, San Francisco Administrative Code Chapter 67.

(2) A statement of the Customer's rights and obligations pursuant to Vehicle Code § 22852.

(3) Schedules of all current towing, storage and additional charges as established pursuant to this Agreement.

(4) Notice required by Vehicle Code § 22850.3 that any vehicle impounded pursuant to Vehicle Code § 22850 may only be released upon proof of current registration or upon issuance of a notice to appear with proof of correction of the registration violation, at the discretion of the impounding agency.

(5) Notice explaining the right to a post-storage hearing and the procedure by which a post-storage hearing may be requested from SFMTA, DPH or the SFPD.

(6) Procedures for filing a Claim for damages incurred to the vehicle or contents thereof as a result of the tow or while in storage, and associated Claim forms.

(7) Procedure by which all unclaimed vehicles are sold at public auction, including the location of such auctions, and a statement indicating that all in attendance at such auction shall have an equal opportunity to bid.

(8) List of publications in which such auctions are advertised.

(9) Instructions for bidders interested in attending the public vehicle auctions.

(10) At the Secondary Storage Facility, a preliminary list of all vehicles to be auctioned seven (7) days in advanced of the auction date.

(11) At the Secondary Storage Facility, results of the previous vehicle auction, which must include the list of vehicles by make, model and year and the final sale price.

(12) A list of Tow Car firms that Contractor has evaluated for compliance with industry standards based on maintenance of insurance and permits which are not affiliated with Contractor, along with their contact information, that Customers may contact for towing services.

(b) Translation of Posted Information

Except for items 5.3(a)(10) and 5.3(a)(11) above, information provided at the Customer Service Center shall be available to the public in English, Spanish, and Chinese and up to three other languages that may be designated by the City. For items 5.3(a)(10) and 5.3(a)(11) above, Contractor shall provide a summary sheet in Spanish and Chinese explaining how to read the lists of auctioned vehicles. Specifications for signage or documentation

produced, including but not limited to multiple languages required, wording, size of letters, font used and methods of display shall be approved by the City in advance of posting or publication. Contractor shall publish all information listed above on its internet site and distribute it to all of its towing subcontractors.

6. Procedures for Vehicle Recovery

6.1 Form of Payment

(a) In-Person Payments

At the time that a Customer contacts Contractor by telephone, internet or in person, Contractor shall communicate the amount of all Mandatory Fees and any other fees owing as of the date of the contact, and shall collect all Mandatory Fees owing prior to releasing the vehicle to the Customer. Customer Service Center staff shall be trained in procedures to accept payments when electronic cash registers or Contractor's computer systems are not operational. The following forms of payment shall be valid for Customers making payment in person at the Customer Service Center:

(1) Cash;

(2) Personal checks with valid ID card as proof of identity if verified through check verification service provided by Contractor; and

(3) Credit card (MasterCard, VISA, American Express, and Novus/Discover Card) with a valid ID card as proof of identity; and

(4) Debit/ATM card with a valid ID card as proof of identity.

(b) Phone and Internet Payments

For payment over the phone or the internet, Contractor shall accept at a minimum:

(1) Credit cards (Visa, Mastercard); and

(2) Debit/ATM cards with credit card company affiliations suitable for internet payments.

6.2 Collection of Parking Citation Payments and Related Fees; Deposit

(a) Citation Payments

Contractor shall accept payment of Citations from all Customers at its Customer Service Center, regardless of whether or not the Customer has had a vehicle towed. In order to allow Contractor to accept Citation payments, City shall give Contractor access to its CMS through the City's WAN and/or via the internet. If a Customer wishes to dispute any Citation, Contractor shall refer the Customer to the SFMTA Citation Division.

(b) Outstanding Fees

At the time that a Customer contacts Contractor regarding payment of fees Contractor shall determine Customer's outstanding Citations and the amount due on each, using SFMTA's CMS. If Customer has five (5) or more Delinquent Citations, Customer must pay all Delinquent Citations before Contractor may release the vehicle. If Customer has fewer than five (5) Delinquent Citations, Contractor must inform Customer of the amount of fees due for outstanding Citations and the option to pay outstanding Citation fees through Contractor. If any person wishes to pay outstanding Citation fees that are not yet Delinquent, the Contractor shall accept payment at its Customer Service Center, or by internet or telephone credit card payment. At the time of payment, Contractor shall record Citation payments online in real-time to the CMS twenty-four (24) hours per day, 365 days per year. Notwithstanding the requirements of this Section 6, Contractor shall not be required to provide information over the internet on outstanding Citation fees, nor shall Contractor be required to accept credit card payments over the internet until such time as Phase 3 of Contractor's internet site is implemented, as described in Section 6.4 herein. Contractor shall not accept payments for Citations that are marked in the CMS as being under Administrative Review, Hearing, or Project 20. Contractor shall also require payments for boot

fees that may have been charged prior to the vehicle being towed and any insufficient funds fees that may have been assessed for prior Citation payments.

(c) Collection Fees for Non-Towed Vehicle Citations

The threshold amount of funds collected daily for Citations associated with vehicles that have not been towed, under which amount Contractor is required to collect Citation fees for non-towed vehicles without any reimbursement credit from City (the "Daily Collection Limit"), is currently set at $5,952 per day, based on the current average parking fine payment of $48.29 per Citation (the "Average Citation Amount"). Should the amount collected by Contractor exceed the Daily Collection Limit amount more than twice within a given calendar month, Contractor shall be entitled to a processing fee in the form of a credit in an amount equivalent to seven and a half percent (7.5%) of the amount received above the Daily Collection Limit, beginning on the third (3rd) day and continuing on each day within the calendar month that Citation fee collections exceed the Daily Collection Limit. Should the Average Citation Amount increase or decrease by more than one percent (1%), the Daily Collection Limit shall increase or decrease by the same percentage. The Average Citation Amount and the Daily Collection Limit amount shall be reviewed by City and recalculated as necessary at the beginning of each contract year.

6.3 Interactive Voice Response System

Within sixty (60) days of the Effective Date of the Agreement, Contractor shall provide an interactive voice response system ("IVR") that will answer incoming calls and offer callers a choice of menus with information on towing services. Contractor's proposed telephone answering system, its equipment, functionality and its message content shall be subject to review and approval by the City. At a minimum, the IVR must contain the following features:

(1) Capability for users to obtain general information about the status and location of a vehicle, including Investigative and Administrative Police Hold information

(2) Ability to hear a detailed listing and summarized total of all Mandatory Fees and other fees that have been applied to the vehicle (excluding Delinquent Citations)

(3) Option to pay Mandatory Fees and other fees by credit card and receive instructions for the expedited release of the vehicle from a live operator (excluding Delinquent Citations)

(4) Options for information on Contractor's locations and operating hours

(5) Ability to listen to general information regarding Contractor and City policies and procedures

(6) Information on the weekly lien sale auctions

(7) Option to transfer to a live operator

(8) The IVR must be functional ninety-seven percent (97%) of the time during the hours of 6:00 a.m. to 12:00 a.m. during a monthly reporting period.

Within 180 days of the date that the City provides an Application Programming Interface ("API") that Contractor can use to integrate its TVMS with the City's CMS, the Contractor's IVR shall provide the following additional capabilities: Contractor's IVR shall communicate in real-time with the TVMS to accept payments for any outstanding fees and optional services available to the public and with the City's Citation processing system to pay any outstanding Citations. The IVR shall advise the Customer of the date range for which the stated fees are applicable, as well as a time limit within which the vehicle must be retrieved without incurring additional storage charges once the fees have been paid. The IVR shall ensure that all fees for five (5) or more Delinquent Citations, boot fees and insufficient funds fees shall be included in the Mandatory Fees required for release of the vehicle presented to the Customer for payment on the IVR. In addition, Contractor must advise the Customer of any other outstanding amount listed in the Citation processing system. Contractor's IVR shall inform Customers of the payment of Mandatory Fees required for release of the vehicle, and shall separately advise of the amounts of any other outstanding fees that may be paid simultaneously through the IVR system. Following

integration of the TVMS and CMS, Contractor shall provide Customers with the ability to make credit card payments for Mandatory Fees through its IVR system.

6.4 Internet Services

Within ninety (90) days of the Effective Date of this Agreement, Contractor shall design and implement an internet site that allows the Customer to access information on towed vehicles, not including outstanding Citation fees or the ability to make credit card payments over the internet ("Phase 2"). In Phase 2, a Customer shall be able to look up vehicle data on the internet site using a minimum of two (2) of the following data look-up fields:

(1) License number

(2) Make

(3) Towed from location (by street name)

(4) Tow date

Within 180 days of the date that the City provides an Application Programming Interface ("API") that Contractor can use to integrate its TVMS with the CMS, Contractor shall provide the ability for the public to access all information regarding a towed vehicle and all related outstanding fees and charges ("Phase 3"). In Phase 3, Contractor shall provide the capacity on its internet site to make on-line, real-time payments of Mandatory Fees and any other fees for Citations, using a credit card with appropriate security restrictions for payment types accepted. The internet site shall advise the Customer of the date and time range for which the stated fees are applicable, as well as a time limit within which the vehicle must be retrieved once the fees have been paid without incurring additional storage charges. The internet site shall ensure that all fees for five (5) or more Delinquent Citations, boot fees, and insufficient funds fees shall be included in the Mandatory Fees required for release of the vehicle that are presented to the Customer for payment on the internet site. Contractor's internet site shall inform Customers of the payment amount of Mandatory Fees required, and shall separately advise of the amounts of any other outstanding fees that may be voluntarily paid through the internet site. The internet site created to satisfy the requirements of this Section shall meet Department of Telecommunications and Information Services standards for accessibility.

6.5 Vehicle Recovery

(a) Vehicle Location

Contractor's staff in the Customer Service Center and vehicle storage facilities shall be able to identify and locate a towed vehicle in Contractor's possession by using the license number, the VIN, or three (3) or more of the following identifiers: vehicle make and model, vehicle color, date of tow, and location of tow. Contractor's Customer Service Center and vehicle storage facility staff shall use the TVMS to provide information regarding the tow, and shall also be trained in procedures for manual processing of vehicle pick-up requests during times that the TVMS is not operational.

(b) Vehicle Release Procedure

When appearing to recover a towed vehicle, the Customer shall be required to provide evidence that she/he is a person entitled to possession of the vehicle. This shall include, but is not limited to, a key to the vehicle, a letter authorizing the person to pick up the vehicle signed by the registered owner, or a valid photo identification establishing a person's right to claim the vehicle. When Contractor is satisfied that the Customer is entitled to possession of the vehicle, Contractor shall record the identity of the Customer and the number of the photo identification provided by the Customer into the TVMS. After obtaining payment of all fees owing, the Customer shall be issued a tow receipt, with a copy to be signed by the Customer and retained by Contractor, and shall be directed to the Designated Facility where the vehicle is located to meet a Customer service agent. This Customer service agent shall either assist the Customer with the physical retrieval of their vehicle, direct them to the Contractor-provided shuttle, or arrange a pre-paid, one-way taxi ride to the Secondary Storage Facility in order to retrieve their vehicle. Contractor shall require any person who claims the right to possession of a vehicle to show a valid driver's license or to identify a licensed driver before allowing the vehicle to be

driven off of the Contractor's facilities and onto the public streets, except that Contractor may release a vehicle towed by SFPD to the person listed on the release issued by SFPD without requiring that person to show a valid driver's license.

(c) Vehicles Not Subject to Release

Contractor shall not release a vehicle that is subject to Police or Administrative Hold without a written authorization for release from the agency that impounded the vehicle. Contractor shall not release a vehicle unless Mandatory Fees have been paid or have been waived as provided in this Agreement. Contractor may not release any vehicle without proof of compliance with vehicle registration laws, which at the time of vehicle intake may be ascertained by visual inspection of registration tags on license plates. Contractor shall be liable for and hold City harmless from all claims arising out of the improper release of a vehicle, unless such release is caused solely by the negligence of SFMTA, SFPD, DPH or the DMV.

6.6 Form of Receipt

Contractor shall provide all Customers with a receipt for services rendered. The form of the receipt shall be subject to approval by City. All receipts shall include the following information:

A clear and succinct statement, in a legible text of at least 10-point type, informing the Customer that by law they may protest a vehicle tow, that a hearing to protest any tow must be requested within thirty (30) days from the date of tow, and setting forth current telephone numbers for SFMTA, DPH and the SFPD for the purpose of requesting a hearing. SFMTA may require changes to the language or form of such statement printed on Contractor's receipt. In addition, each Customer's receipt shall include the following information:

(1) A complete, itemized schedule of fees and charges, and

(2) Each individual Citation paid, listed by Citation number, the amount paid on that Citation, and the remaining balance due for any outstanding Citation.

6.7 Disclosure of Deficiency Claim at time of Vehicle Abandonment

Contractor shall provide written notice to Customers who abandon their vehicles at Contractor's facilities, informing the Customer that abandoning a vehicle is not sufficient to avoid towing and storage costs in excess of the vehicle's sale price, and that such towing and storage charges in excess of the vehicle's sale price may be subject to collection. Such notice shall include (1) the charges to date, and (2) the Lien Category expressed as the range of potential value of the vehicle. The form of such notice shall be subject to prior approval of the City. Contractor shall not provide such notice to owners of Lien 1 Vehicles, because Lien 1 Vehicles are not subject to deficiency claims.

6.8 Invalid Payments

Any costs incurred by or loss to Contractor resulting from the use of checks, counterfeit cash, credit cards, debit cards, or ATM cards, whether received in person, through the IVR or internet, shall be considered a business expense of Contractor and is not billable to the City under any circumstances.

7. Procedures for Lien Sales

7.1 Notification to Registered Owner

Contractor shall make a diligent effort to locate and contact the owner and any lienholder(s) for each impounded vehicle, in accordance with all state and local laws and regulations. Contractor shall request vehicle ownership information from the DMV for all vehicles stored at least seventy-two (72) hours, and shall, whenever ownership information is available, send lien notices to registered owners, lien holders and legal owners identified by the DMV between three (3) and seven (7) days from the date that the vehicle was towed. If Contractor is able to ascertain the identity of the owner of the vehicle and fails to send notice under this section within seven (7) days of the date that the vehicle was towed, Contractor shall waive storage fees for the vehicle for the eighth (8th) day of storage through the lien start date. Contractor shall use an electronic means of communicating its requests for vehicle license and ownership information to, and of receiving responsive

information from the DMV. Exceptions to the deadlines for providing prompt notice of storage to vehicle owners pursuant to this Section 7.1 include:

(1) Vehicles subject to Investigative Police Holds. Ownership information for these vehicles should be requested and notices sent within seven (7) days after the hold is released by the SFPD, and storage charges shall begin to accrue as of the date of the release of the hold.

(2) Vehicles identified as NO ID vehicles pursuant to Section 4.5 of this Appendix A which require SFPD inspection. Ownership information for these vehicles should be requested and notices sent within seven (7) days after vehicle identification has been provided by SFPD.

(3) Vehicles with out-of-state license plates for which the DMV does not have ownership information. Lien notices for these vehicles must be sent to DMV in accordance with the requirements of the Vehicle Code.

(4) Other cases of extenuating circumstances as approved by the City.

The form of notice sent to registered owners and lien holders shall be subject to Vehicle Code, Civil Code, and DMV requirements and prior approval by City. Lien sale notices shall include a statement that failure to claim a vehicle is not sufficient to avoid towing and storage costs in excess of the vehicle's sale price, and that, with the exception of Lien 1 Vehicles, such towing and storage charges in excess of the vehicle's sale price may be subject to collection. Lien sale notices shall also be accompanied by the following notice:

> If your vehicle is sold at auction, you may be entitled to any proceeds that exceed the amount of the AutoReturn lien, any applicable City fees, and the amount of any unpaid parking citations on the vehicle. AutoReturn is required to send the excess proceeds to the California Department of Motor Vehicles to be deposited in the Motor Vehicle Account in the State Transportation Fund. If you do not claim the excess proceeds within three years of the date that the money is deposited into the Motor Vehicle Account, you may forfeit your right to the money under California Civil Code Section 3073. In order to find out if your car sold for more than our lien amount, you may contact the Lien Sale Unit at the Department of Motor Vehicles at the following address: California Department of Motor Vehicles, Lien Sale Unit, P.O. Box 932317, Sacramento, CA 94232-3170. Or, you may call the Lien Sale Unit at the following telephone number: 916-657-7976.

7.2 Lien Sales

(a) Lien Sale Procedures

Contractor shall comply with all state and local laws and regulations applicable to notice and conduct of lien sales of vehicles, including, but not limited to California Civil Code §§ 3068-3074 and Division 11, Chapter 10, Article 2 of the Vehicle Code (§§ 22650 *et seq.*), and any successor statutes. Contractor shall track lien-related dates, and process the official lien notification paperwork as required for lien sales in the state of California. Contractor's lien sale notice for Lien 2 and Lien 3 vehicles shall include the specific date that the vehicle is scheduled to be sold at auction, and Contractor may use this date to calculate the amount of storage charges due. Contractor shall not process the Bill of Sale and the Certificate of Lien Sale until the auction sale date and shall include on these forms the name of the buyer and the purchase price of the vehicle.

Unless City has given prior written approval to suspend a scheduled lien sale ("auction"), Contractor shall conduct lien sales at least weekly for vehicles that have been cleared for sale after the lien process is complete. The day of the week for these auctions is subject to approval by City. City hereby approves Wednesday as a regularly scheduled auction day. Contractor shall submit a Public Auction Plan for the City's review and approval upon the Effective Date of the Agreement. The Public Auction Plan shall be approved and adopted as part of the Operations Plan as provided in Section 14 of this Appendix A.

(b) Pre-Registration

Contractor shall require all persons who desire to purchase vehicles at auction to pre-register. Contractor shall require all registrants to provide photo identification with current address. Contractor shall maintain records of each purchaser's name and address. Contractor may develop lists of auction participants who demonstrate a tendency to purchase and subsequently abandon vehicles purchased at auction, and may prohibit such persons and any other persons who are known to have engaged in illegal conduct or conduct prohibited by this Agreement before, during or after an auction from submitting bids.

7.3 Post-Lien Sale Procedures

(a) Driver's License and Vehicle Registration

Contractor shall require the purchaser of a vehicle or the purchaser's agent to show a valid driver's license before driving the vehicle off of any Designated Facility and onto the public streets. Contractor shall comply with applicable Vehicle Code requirements for the transfer of title, including but not limited to the requirement of filing a notice of transfer of title pursuant to Vehicle Code § 5900. Contractor shall cooperate with City in implementing any program to provide on-site vehicle registration during vehicle auctions.

(b) Deficiency Claims

Following sale of any vehicle for which Contractor wishes to maintain a Deficiency Claim under California Civil Code § 3068.1, after the sale and before attempting collection of the Deficiency Claim Contractor shall send a notice to the registered owner of the amount of the Deficiency Claim, the basis of charges, including the dates and amounts of towing and storage fees, the make, model and license number of the vehicle that is the basis for the claim, and the amount of the debt, including the amount that is offset by money recovered from the sale or salvage of the vehicle. Documentation of any amounts received by Contractor for the sale or salvage of the vehicle shall be included with such notice. In the event that Contractor utilizes a third-party vendor to provide collection services for these Deficiency Claims, Contractor shall contractually require the third-party vendor to meet the notice requirements of this Section 7.3(b). The form of such notice, whether sent by Contractor or by a third-party vendor, shall be subject to prior approval by City. Contractor waives the right to collect any Deficiency Claim for which it has not complied with the notice requirement of this Section; however Contractor may pursue a Deficiency Claim in spite of a failure to provide adequate notice as required herein if it cures such failure by sending a notice that meets the requirements of this Section within ten (10) days of receiving a written request for documentation of the debt from the vehicle's legal owner, registered owner or the City. Contractor shall not maintain a Deficiency Claim for any Lien 1 Vehicle.

7.4 Disposal of Unsold Vehicles

Contractor shall ensure that Lien 1 and other vehicles not sold at auction are removed from the Secondary Storage Facility at least once per week.

8. Staffing Requirements

8.1 Adequate Staffing

Contractor shall employ adequate numbers of qualified personnel to perform the required services in accordance with the standards specified in this Agreement. The City may require Contractor to hire additional Employees if it reasonably determines that additional Employees are necessary to perform the services required under this Agreement to the specified standards. Criteria to be used in making this determination include but are not limited to any combination of the following:

(1) Tow response times, or

(2) Wait times for walk-in Customers at Customer Service Center, or

(3) Vehicle delivery times to Customers, or

(4) Live operator wait-times for phone Customers, or

(5) Ten percent (10%) change in the number of Complaints, based on monthly Complaint report data, and at least ten (10) more Complaints than the prior month.

8.2 Subcontractors

(a) Subcontractor Designation

Contractor may subcontract with one or more towing service companies for the provision of towing services to Contractor in accordance with the standards of this Agreement. A list of the Contractor's pre-selected and pre-qualified subcontractors shall be submitted upon the Effective Date of this Agreement for City's approval. Consistent with the provisions of Sections 27 and 31 of the Agreement, Contractor shall notify the City in writing prior to deleting or adding any towing subcontractors. Contractor shall provide the City with copies of all subcontractor agreements within five (5) days of the Effective Date of this Agreement and required insurance certificates that identify the Contractor and City as co-insured parties for those subcontractors (not including Worker's Compensation Insurance). Contractor shall also provide copies of subsequent subcontract amendments within five (5) days of any such amendments to its subcontractor agreements.

(b) Subcontractor Compensation

Contractor shall not pay compensation to towing subcontractors based solely on a flat fee per tow. City may require Contractor to change any element of its compensation structure if it results in an undue number of subcontractor complaints or Customer service problems. Upon the Effective Date of this Agreement, Contractor shall submit a Subcontractor Compensation Plan to City for approval as part of the Operations Plan in accordance with the procedures set forth in Appendix A, Section 14.

(c) Subcontractor Performance Standards

Contractor shall define Subcontractor Performance Standards for all Tow Car operators. At a minimum, Performance Standards shall require compliance with all applicable Vehicle Code and San Francisco Police Code requirements for Tow Car operators and Tow Car firms. Subcontractor Performance Standards shall be provided to the City upon the Effective Date of this Agreement. The Subcontractor Performance Standards shall be approved and adopted as part of the Operations Plan as provided in Appendix A, Section 14. Contractor shall audit compliance with these standards quarterly, beginning on a date no later than one hundred and eighty (180) days from the Effective Date of this Agreement, and shall provide written audit results to the City. Contractor's quarterly audit shall, at a minimum, audit subcontractors for compliance with the requirement to maintain valid licenses and permits. The City reserves the right to require the Contractor to perform more frequent audits. Contractor is responsible for any and all claims arising out of the Contractor's failure to maintain current permits and licenses.

(d) Subcontractor Compliance with Licenses and Permits

Contractor shall maintain current and valid City licenses, permits and proof of insurance necessary to perform the services required for this Agreement. Contractor shall require in its subcontracting agreements that all subcontractors maintain current and valid City licenses, permits, and proof of insurance, including but not limited to Articles 30 (Permits for Tow Car Drivers) and 30.1 (Permits for Tow Car Firms) of the San Francisco Police Code or successor Tow Car or Tow Car firm permitting ordinances, and shall require all subcontractors to demonstrate evidence of such licenses, permits and insurance at the time of executing the subcontracts.

(e) Subcontractor Identifying Equipment and Uniforms

All subcontractor personnel who have regular, continuous contact with members of the public shall be neat in appearance and courteous to the public. Contractor shall ensure that all Tow Cars used by its subcontractors for the provision of towing services shall bear a permanently attached sign stating Contractor's and subcontractor's trade name and telephone number in characters at least two inches high and an identifying number in characters at least three inches high on both sides of the vehicle. Detachable magnetic signs may not be used. Contractor shall include in subcontracts the following uniform requirements for subcontractors:

(1) All Tow Car operators must display photo ID badges at all times when on duty. The form and design of the photo ID badges must be approved by the City.

(2) All Tow Car operators must wear at all times a standard colored shirt with the name of the employee affixed to right or left side of the shirt. The Contractor or

subcontractor's company name shall be displayed on the opposite side of the shirt and/or jacket.

8.3 Training

Contractor shall be responsible for all training costs for its Employees. City shall approve all training programs proposed by Contractor in advance of implementation. Contractor shall review the Employee Training Plan with the City annually. Contractor shall submit within ninety (90) days of the Effective Date of the Agreement an Employee Training Plan to the City for review and approval. The Employee Training Plan shall be approved and adopted as part of the Operations Plan as provided in Section 14 of this Appendix A. In approving the Employee Training Plan, City shall give Contractor credit for training provided to Employees during the term of the Emergency Interim Agreement to the extent that it meets the requirements of this Section.

Within thirty (30) days after the Effective Date of the Agreement, Contractor shall have every Employee attend twenty-four (24) hours of professional job training, including customer service training. In addition, Contractor shall conduct a minimum of eight (8) hours of professional customer service training annually for all Employees who perform duties involving significant Customer contact. Contractor shall require certificates of completion for each Employee and shall file these in Employee personnel files with copies sent to the City within five (5) days of completion of training. Contractor shall require in its subcontractor agreements with Tow Car operators that all Tow Car operators performing services for Contractor shall participate in one four (4) hour customer service training session annually. Contractor must provide one such four (4) hour training session annually for towing subcontractors at its own expense; however, when additional training sessions for new subcontractor employees are required Contractor may pass the cost of such trainings on to the subcontractors.

8.4 Policy and Procedure Manual

Contractor shall submit within ninety (90) days of the Effective Date of the Agreement a Policy and Procedure Manual to the City for review and approval. The Policy and Procedures Manual shall be approved and adopted as part of the Operations Plan as provided in Section 14 of this Appendix A. Contractor shall require in its subcontracting agreements that all subcontractors shall adhere to Contractor's Policy and Procedures Manual. The Policy and Procedures Manual shall differentiate between the responsibilities of each subcontractor where necessary.

8.5 Staffing Plan

Within forty-five (45) days of the Effective Date of the Agreement, Contractor shall provide a Staffing Plan to meet all service and performance requirements of the Agreement. Contractor's Staffing Plan shall indicate the number of people and positions it will provide to perform the services required in this Agreement. The Plan shall provide the name, title and time allocation (percentage of dedication to the proposed Agreement) for each staff person. The Staffing Plan shall be approved and adopted as part of the Operations Plan as provided in Section 14 of this Appendix A.

8.6 Management Changes

Contractor shall provide written notice for City approval prior to any permanent changes or substitutions of executive or management Employees, for any substitutions longer than six (6) weeks. SFMTA may request a change in contract personnel or reject any substitution. The Contractor shall notify the City within five (5) days of occurrence any terminations or resignations of Contractor's executive or management Employees.

8.7 On-Call Manager

Contractor shall have a manager with the authority to make decisions regarding Agreement-related issues who shall be available or on-call at all times through the use of mobile phones, pagers, or two-way radios for all operational functions. Contractor's system for providing the City with access to the manager at all times must be approved, in writing, by the City.

8.8 Contract Monitor

(a) Contract Monitor Payment Fund

Within 30 days of the Effective Date of this Amended and Restated Agreement, and within 30 days of each anniversary of that Effective Date during the Term of the Agreement (the "Anniversary Date"), Contractor shall make a payment to the City ("Contractor Monitor Payment") to be used by City for the sole purpose of employing a Contract Monitor who shall monitor Contractor's compliance with the Agreement, its Appendices, the Operations Plans and relevant California law as directed by City. The initial Contract Monitor Payment shall be $140,000, which shall be adjusted annually in direct proportion to the percentage increase in the current Consumer Price Index for Urban Wage Earners for the San Francisco Bay Area ("CPI") for the month immediately preceding the applicable Anniversary Date ("Current Index") over the CPI for the month of June 2010 ("Base Index"). In no case shall the Contract Monitor Payment, as adjusted, be less than the Contract Monitor Payment made on the previous Anniversary Date. If the Current Index has increased over the Base Index, the adjusted Contract Monitor Payment shall be determined by multiplying the initial Contract Monitor Payment by a fraction, the numerator of which is the Current Index and the denominator of which is the Base Index, as follows:

$$\frac{\text{Current Index}}{\text{Base Index}} \times \text{initial Contract Monitor Payment} = \text{Adjusted Contract Monitor Payment}$$

(b) Duties of Contract Monitor

The Contract Monitor shall have broad audit and investigation authority. The Contract Monitor shall review the Contractor's classification of vehicles as Lien 1, Lien 2, or Lien 3 and has the authority to require Contractor to change the classification to protect vehicle owners prior to the Contractor sending the lien notice to the DMV. The Contract Monitor's decision to change the classification of a vehicle must be in accordance with Vehicle Valuation Standards Plan, which shall be approved and adopted as part of the Operations Plan as provided in Section 14 of this Appendix A.

The Contract Monitor's duties shall include such duties as City, in its sole discretion, shall specify. In addition, the Contract Monitor is hereby authorized to act as SFMTA's representative for the purpose of conducting any inspection authorized by Section 11.6 of Appendix A of this Agreement.

Contractor shall notify Contract Monitor of the day of regularly scheduled weekly auctions. Contractor also shall notify the Contract Monitor a minimum of three (3) days before any additional auctions will take place. Contractor shall provide the Contract Monitor a report of all vehicles being auctioned, which shall include at a minimum the vehicle makes, models and the minimum asking price as determined by Contractor. The Contract Monitor has the authority to require Contractor to reduce the minimum bid amounts, if any, prior to the auction.

8.9 Vehicle Auctioneer

(a) Auctioneer Staffing Plan

Contractor shall contract for the services of an independent auctioneer at Contractor's expense. Contractor shall replace a full-time auctioneer at least once per year except with the City's prior written approval. Upon Contractor's request, and with prior written approval by City, an individual who has served as a full-time auctioneer in the past, but not within the preceding year, may again act as a full-time auctioneer. A full-time auctioneer is defined as one who has performed more than 50% of the auctions within a given contract year. Within forty-five (45) days of the Effective Date of the Agreement, Contractor shall provide to City an Auctioneer Staffing Plan, which shall include the method for selection and screening of candidates for the position of auctioneer, the duties of the auctioneer, and the measures that Contractor shall take to ensure that no sales are made at auction in violation of Section 8.9(c) of this Agreement. The Auctioneer Staffing Plan shall be approved and adopted as part of the Operations Plan as provided in Section 14 of this Appendix A.

(b) Information Provided to Auctioneer

Contractor shall notify the auctioneer of the day of regularly scheduled weekly auctions. Contractor also shall notify the auctioneer a minimum of three (3) days before any additional auctions will take place. Contractor

shall provide the auctioneer a report of all vehicles being auctioned, which shall include at a minimum the vehicle makes, models, and the minimum asking price as determined by Contractor ("Auctioneer Report").

(c) Vehicle Sales to Certain Individuals Prohibited

Contractor shall not knowingly sell vehicles at auction to any individuals meeting the following criteria (collectively, "Restricted Auction Participants"):

(1) The Contract Monitor and any Close Family Member of the Contract Monitor;

(2) Contractor's employees and any Close Family Member of Contractor's employees;

(3) Any individual designated to provide auditing services under the Agreement as described in Section 12.6; and

(4) Any person who is acting or has acted within the previous five years as Contractor's vehicle auctioneer , and any Close Family Member of a person who is acting or has acted within the past five years as Contractor's vehicle auctioneer.

Any auctioneer who knowingly has accepted bids on lien sale vehicles in violation of this Agreement, or who conducts an auction that in any way benefits the auctioneer's own financial interests or the financial interests of any Close Family Member, shall be immediately disqualified from conducting any future auctions. The Contractor must act immediately to dismiss an auctioneer if it has actual knowledge of any conduct on the part of the auctioneer that is prohibited under this Section, and must immediately notify the City if it has actual knowledge or suspicion of any conduct on the part of the auctioneer that is prohibited under this Section.

Contractor shall not be responsible for screening auction participants for improper relationships, except that Contractor must obtain and verify a list of the Restricted Auction Participants at the time of any changes to the current employee list, the Contract Monitor, the Auctioneer and/or the individuals designated to provide auditing services under the Agreement. On at least a quarterly basis, Contractor must utilize the most current list of Restricted Auction participants and a random sample set of vehicles sold through the auction during the given evaluation period to determine if any vehicle sales within the sample are prohibited under this Section. The sample should contain no less than 1% of the vehicles sold for the evaluation period.

Contractor must establish a clear employment policy that prohibits employees and their Close Family Members from making purchases of vehicles at Contractor's auctions. The policy must be included in Contractor's employee policies manual that all new employees are required to review and acknowledge acceptance of at the time of employment. The Contractor must act immediately initiate termination proceedings for any employee found to have violated this policy and must immediately notify the City if it has actual knowledge or suspicion of any employee violating this policy.

For the purpose of this Section, the term "Close Family Member" shall mean an individual's spouse, child or parent.

9. Equipment and Information Services Requirements

9.1 Tow Cars

Contractor shall provide regular and heavy duty Tow Cars staffed with trained operators twenty-four (24) hours a day, 365 days per year, within response time requirements, to perform any type of vehicle removal that is the subject of a Tow Request from any public street or highway or private property within the City in accordance

with the requirements of the Vehicle Code and the Traffic Code, including, but not limited to, the following types of tows:

(1) Towing of large and oversize vehicles

(2) Towing from off-road areas

(3) Towing from low-clearance areas and underground garages

(4) Towing of evidentiary vehicles

(5) Towing vehicles involved in collisions

(6) Towing of vehicles with anti-theft locking devices.

All Tow Cars used in the performance of tow services under this Agreement shall be in good mechanical and operating condition and clean on the interior and exterior. Contractor's agreements with subcontractors for towing services must require subcontractors to comply with maintenance and cleanliness standards for Tow Cars and auxiliary equipment set forth on the California Highway Patrol form number 234 "Annual Tow Car Inspection Report" or successor California Highway Patrol form. Contractor shall conduct random inspections of all Tow Cars and Tow Equipment provided by subcontractors at least quarterly, on an inspection schedule that ensures that the entire fleet and all operators are inspected over a twelve (12) month period. Contractor shall require compliance with such random inspections in its subcontracts for towing services. Contractor shall submit all inspection results to the City.

9.2 GPS Tracking Systems for Tow Cars

(a) GPS Equipment

Subcontracts for towing services shall require that all Tow Cars or Tow Car operators used to provide services under this Agreement be equipped with a global positioning tracking system ("GPS") within ninety (90) days of the Effective Date of this Agreement. The GPS device selected for use in the Tow Cars must allow City to accurately track the location of the Tow Car operator in accordance with the specifications set forth in Section 15.5(5) of this Appendix A while it is used to provide services under this Agreement. If the selected GPS device does not meet the City's reasonable expectations based on the GPS standards set forth in the RFP, the City reserves the right to require an alternate device be used, including one that is affixed to the Tow Car.

(b) GPS Software

Contractor shall acquire and maintain all necessary software licenses for this GPS tracking system. Contractor shall provide to City, at Contractor's sole cost, access to the GPS tracking system using an internet based interface or client-server application that can operate on the City's WAN. Contractor shall install and configure GPS software, provide training for the use of the software, and support all activities related to the City's use of the GPS tracking system.

9.3 Two-Way Radio Communications Equipment

On the Effective Date of this Agreement, Contractor shall issue a two-way radio to each Tow Car operator that shall be used when direct voice communication is required or as a backup communication method, and to enable digital, hands-free communication between Central Dispatch and the Tow Car. All radio communications between Central Dispatch and a Tow Car shall be monitored by supervisory personnel and recorded (as described in Appendix A, Section 1.3). Contractor shall also issue a minimum of two (2) radios to SFMTA to be used as an alternative communications method between City dispatchers and Contractor dispatchers. Contractor shall be responsible for all costs associated with two-way radios that are issued to the City; however, Contractor may recover costs for radios distributed to subcontractors from those subcontractors.

9.4 Tow Car Data Terminal

Within 180 days of the Effective Date of this Agreement, Contractor shall send the initial basic information collected on every vehicle towed (field officer requested tows only) by each Tow Car in real-time to the TVMS using a data terminal or other device available in each Tow Car. Contractor shall train Employees and

subcontractors on the manual procedure for inputting the initial basic information on towed vehicles if the Tow Car data terminals are not working. When Tow Car data terminals are not working, the information shall be communicated from the Tow Car operators in the field to Central Dispatch via two-way radio communications. This initial communication will create a new record indexed to the unique, system-generated field in the TVMS for every tow provided by Contractor, herein referred to as the "Tow Request ID" for the purpose of this Agreement only; Contractor may use any clearly defined field name in the TVMS. The basic information reported on every towed vehicle must at a minimum, include at least three (3) of any of the data elements from the following list; however City may, by written notice to Contractor, require that the vehicle license plate number be a mandatory data element for the purposes of this Section:

(1) Vehicle license plate number

(2) Vehicle make

(3) Vehicle model

(4) Vehicle color

(5) Location of the tow (street and cross street)

(6) Tow date and time.

9.5 Vehicle Tow Records and CMS

Within ninety (90) days of agreement by the parties on an interface design and joint project plan, Contractor shall create an interface between its TVMS and the City's CMS so that records on each towed vehicle are created in the City's CMS in real-time as the tows occur (field officer requested tows only). In addition, this interface must ensure that agreed-upon updates made by Contractor to a towed vehicle record in the TVMS are updated in the City's CMS in real-time for any data element that is shared by the CMS and the TVMS (both dispatch and field officer requested tows). Contractor must provide City with information to update the CMS with all intake information within one (1) hour of the intake of the vehicle. In any instance in which the CMS and TVMS have matching information for the vehicle, Contractor must enter all release information into the CMS within twenty-four (24) hours of release of the vehicle. If the vehicle's identifying information cannot be matched between the CMS and the TVMS, Contractor shall report the discrepancy to SFMTA within two (2) business days, excluding weekends and holidays. Contractor shall update the City's CMS via a "simple screen swipe" method, for the purposes of inserting new tow information (field officer requested tows only) through the interface; however, if Contractor identifies a more efficient, cost effective method which the City approves in writing, Contractor may implement such alternative method at its own cost.

At any time during the Term of this Agreement, with the City's prior, written approval, and subject to all conditions contained in such approval, the parties may agree to eliminate the use of the City's CMS for entering and tracking towed and impounded vehicles. Should the parties agree to eliminate the data entry of new tow information into the CMS, the interface requirements of this Section 9.5 would not longer apply. Likewise, Contractor would no longer be required to update CMS when a vehicle is released or sold (removed from the impound facilities). Instead, the sole record of towed and impounded vehicles would be the Contractor's TVMS system, and the City would have the right to audit this data at any time using reasonable auditing methods. If a record of towed and impounded vehicles is no longer maintained in CMS, the Contractor would be required, on a daily basis, to provide the City with a list, in an electronic format that is approved by the City, of all vehicles that are currently impounded.

9.6 Electronic Tow Inventory Slips

Within sixty (60) days of the Effective Date of this Agreement, Contractor shall provide electronic storage of all tow slip information in the TVMS system. The tow slips shall be processed and entered into the TVMS system as soon as the vehicle is delivered to one of the Designated Facilities, and never more than eight (8) hours after a vehicle is towed. Contractor shall ensure that City has remote electronic access to the tow inventory slip information at all times. Contractor shall also scan all manually written tow slips and store the tow slip as an electronically scanned image, cross-referenced to the tow record in the TVMS. Contractor shall provide a

hotline for technical assistance related to electronic tow inventory slips Monday through Friday from 8:00 a.m. to 6:00 p.m., with pager or mobile phone access during all other hours.

10. Towed Vehicle Management System

Contractor shall maintain detailed electronic records of each tow in its TVMS. The TVMS shall assign a unique, system-generated Tow Request ID to each Tow Request made during the term of this Agreement. All information related to the towing, impoundment, and disposition of any vehicle currently impounded or previously released, sold or disposed of, including references to manually written (paper) tow slips, shall be searchable in the TVMS using the Tow Request ID. This system must be capable of providing to SFMTA a daily record containing information including the date of the Tow Request, the make, model, license plate number, and VIN of all towed vehicles and the current status of all towed vehicles. Towed vehicle information must be entered into the TVMS within three (3) days of the date of the tow.

For Dispatch Tows, information about vehicles that are dropped or not towed for some other reason shall be recorded in the Contractor's TVMS but Contractor shall not generate any record for the purpose of assessing charges for tows of such vehicles.

10.1 Computer Hardware and Software

Contractor shall use Microsoft Windows 2000 Server, or later version, VMware ESX Server 3.5, or later version, or CentOS 5.x, or later version, as the operating system of its servers. Contractor shall use Windows XP Professional, or later version, as the operating system for its desktop computer workstations. The location of the Contractor's data center in which information for the TVMS is hosted must be approved by the City. As of the Effective Date of the Agreement, City hereby approves the location of Contractor's data centers, at the following locations:

(1) TVMS: SoftLayer Technologies, Inc., Seattle, Washington;

(2) ADS: Evocative, Inc., Emeryville, California; and

(3) Other Applications: the Evocative data center and the data center located at Contractor's Customer Service Center.

Contractor shall not under any circumstances maintain the TVMS using proprietary software that prevents data extraction and analyses into any general industry-wide database system protocol, such as Oracle or Microsoft SQL.

Contractor shall provide the following specified hardware for the City's use to connect the City network to the Contractor's network. All the equipment that is installed in the City's data center and required to terminate the secure, point-to-point connection between the City and Contractor networks shall become the property of the City at the expiration or termination of this Agreement. The requirement that Contractor provide this equipment is subject to the provisions of Section 10.2 If the City, in writing, removes the requirement for the T1 data line, the associated equipment will no longer be required.

(a) Firewall Configuration

Cisco (PIX-506E-BUN-K9)

Product	Description	Quantity
PIX-506E-BUN-K9	PIX 506E 3DES/AES Bundle (Chassis, SW, 2 FE Ports, 3DES/AES)	1
CAB-AC	Power Cord, 110V	1
SF-PIX-506-6.3	PIX v6.3 Software for the PIX 506E Chassis	1
PIX-506-SW-3DES	PIX 506E3DES/AES VPN/SSH/SSL encryption license	1
PIX-VPN-CLNT-K9	Cisco VPN Client Software (Windows, Linux, Solaris)	1
CON-OSP-PIX506BN	ONSITE 24x7x4 PIX 506E 3DES/AES Bundle (Chassis, SW, 2)	1

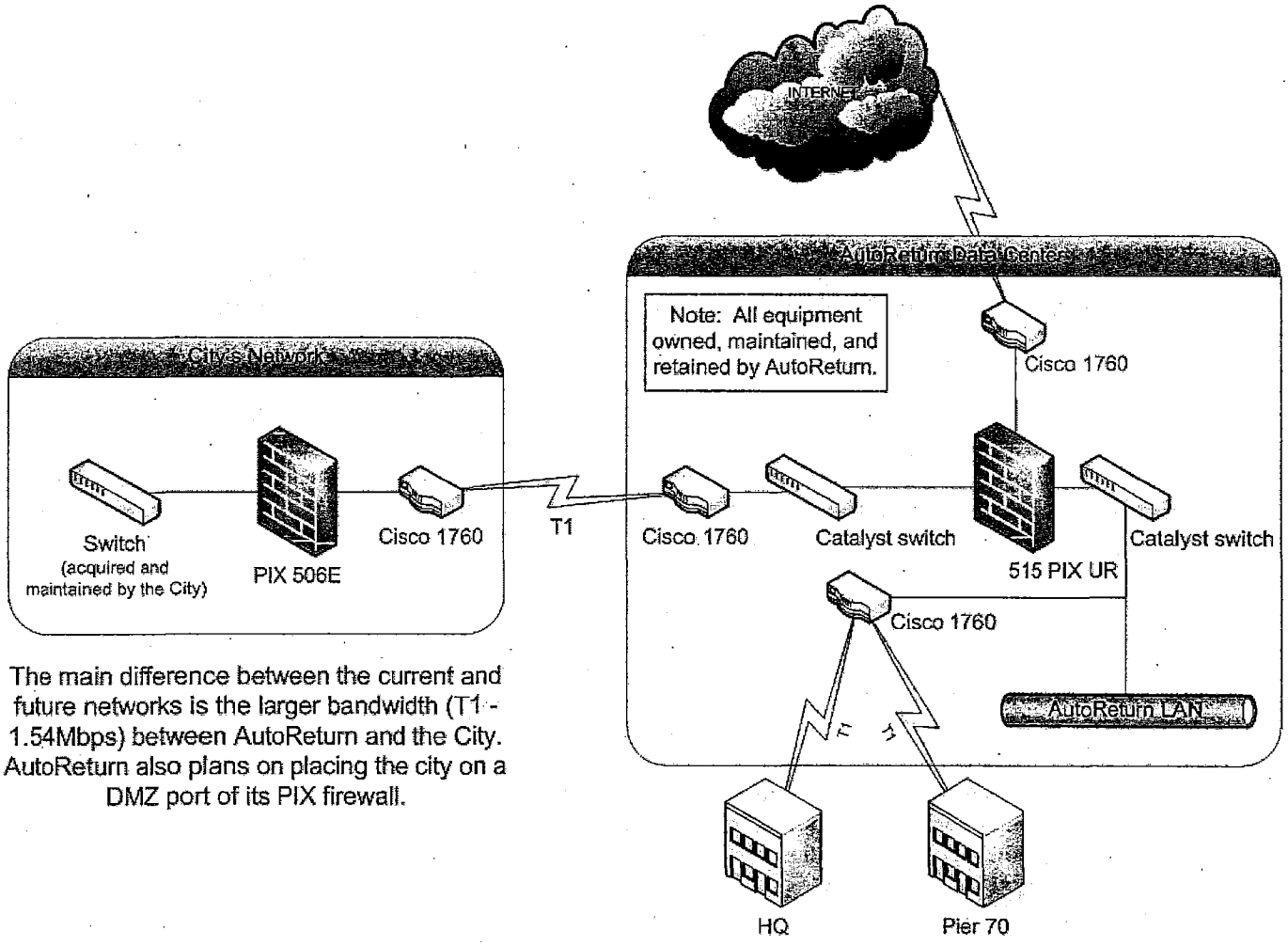
(b) Router Configuration

(CISCO 1760)

Product	Description	Quantity
CISCO1760	10/100 Modular Router w/ 4 slots, 19-in. Chassis, 32F/64D	1
S17B-12215T	Cisco 1700 IOS IP/IPX	1
WIC-1DSU-T1	1-Port T1/Fractional T1 DSU/CSU WAN Interface Card	1
CAB-AC	Power Cord, 110V	1
 ROUTER-SDM	Device manager for routers	1
CON-SOP-1760	24x7x4 Onsite Svc, 10/100 Modular Router w/ 2WIC/VIC, 2VICs	1

See Figure 1 for further configuration details.

Figure 1: Overview of Connectivity Between City and Contractor Networks



The main difference between the current and future networks is the larger bandwidth (T1 - 1.54Mbps) between AutoReturn and the City. AutoReturn also plans on placing the city on a DMZ port of its PIX firewall.

10.2 Network Connections

Within thirty (30) days of the Effective Date of the Agreement, or other date approved in writing by City, the Contractor shall provide data lines to connect the following locations to the Contractor's TVMS:

Contractor Division	Location
Customer Service Center	450 7th Street
Primary Storage Facility	450 7th Street
Secondary Storage Facility	Pier 70

Note: Alternate sites may be approved by the City.

Contractor shall provide T1 Internet data lines that connect the Customer Service Center and Primary Storage Facility to the Contractor's TVMS. Contractor shall provide data connections to the Primary and Secondary Storage Facilities using a T1 data line. Contractor shall install a firewall at all locations where there is a direct connect to the Internet to ensure the security of the data.

Within thirty (30) days of the Effective Date of this Agreement, or other date approved in writing by City, Contractor shall provide a T1 data line that connects the Customer Service Center with the SFMTA server headquarters at 1 South Van Ness Avenue. This connection will be used to provide a connection to the Contractor's TVMS for City staff and create a pathway for the Contractor's staff and systems to access the City's CMS. At any time during the Term of this Agreement, with the City's prior, written approval, and subject to all the conditions contained in such approval, the parties may agree to eliminate the requirement for the T1 data line that connects the networks of the City and Contractor. Because both the CMS and TVMS systems can now be accessed directly via the Internet, the parties may agree to eliminate the T1 data line to simplify the systems administration for the City and Contractor, and to eliminate the monthly costs of both the data connection and the associated networking equipment (see Section 10.1).

Contractor shall provide the following City locations with real-time access to the Contractor's TVMS within thirty (30) days of the Effective Date of this Agreement:

City Division	Location
SFMTA Enforcement	505 7th Street
SFMTA Citation Division	11 South Van Ness Avenue
SFMTA Hearing Division	11 South Van Ness Avenue
SFMTA Administration	1 South Van Ness Avenue, 8th Floor
SFPD NOID Office	Pier 70
SFPD STOP Program	850 Bryant Street

For users located at the City locations listed above who cannot connect to the Contractor's system using either a direct connection to the Internet or the data line connecting the Customer Service Center to 1 South Van Ness Avenue, Contractor shall configure a single Virtual Private Network (VPN) utilizing 3DES encryption per location. Remote clients shall be able to connect to Contractor's network through remote VPN client software and DSL Internet connections. Contractor shall bear only the cost of the DSL Internet services and the corresponding DSL modems and/or routers. City shall identify and provide a computer (Windows XP, or later version) in each location on which the VPN client software will be installed, for which the DSL Internet service will be established, and for which the access to the Contractor's TVMS will be provided. The City shall also be responsible for any telecommunications cabling that is required for the DSL connections to be established in each location.

10.3 City Access to TVMS

Contractor shall provide the City with direct, real-time access to the TVMS. Access to the TVMS shall be controlled using sufficient security protocols and procedures to protect the security of the City's network.

Contractor shall issue user logins and passwords to authorized City staff members as needed and requested by the City. All costs associated with providing the City with access to the TVMS, including any required hardware and data lines (as described in Sections 10.1 and 10.2), shall be the sole responsibility of the Contractor (except as specified in Sections 10.1 and 10.2).

Contractor shall provide all associated hardware, software, data lines, and maintenance to ensure on-going City access to the TVMS at least ninety-nine percent (99%) of the time during a monthly reporting cycle and shall provide a hotline for technical assistance Monday through Friday from 8:00 a.m. to 6:00 p.m., with pager or mobile phone access during all other hours.

10.4 TVMS Functionality

Contractor shall provide the City with a proposed data model of the TVMS that shows all tables and fields for the City's review and approval within thirty (30) days of the Effective Date of this Agreement. Contractor's proposed data model for the TVMS shall include, at a minimum, the data fields listed in the table below.

Data Element	**Required Field**
Vehicle Information	Make
	Model
	Year
	Color
	Body style
	License number
	License state
	VIN
	Comments added by Customer service representatives from conversations with vehicle owner, lien holder, insurance agent, or any other applicable party
	Date of tow
	Time of tow
	Location of tow - street
	Location of tow - cross street
	Tow Equipment type
	Reason for tow
	Time of arrival at Primary Storage Facility
	Date relocated to Secondary Storage Facility
	Time relocated to Secondary Storage Facility
	Storage location
	Dispatcher ID
	Tow subcontractor ID
	Disposition type (released or sold)

Data Element	Required Field
	Date of disposition
	List of vehicle contents at time of tow
Photograph of Vehicle Condition	Digital photographs of vehicle condition at time of initial arrival at Designated Facility
Vehicle condition	Description of vehicle condition on arrival at Primary Storage Facility
Image of Vehicle Condition	Documentation of damage visible on vehicle at time of tow
Registered Owner Information	Name
	Address
Revenue	Sale revenue
	Salvage revenue
Fees Received	Tow fees
	SFMTA Administrative Fee
	Storage fees
	Transfer fees
	Lien fee
Lien Information	Date information sent to DMV
	Date of release (release date or sale date)
	Lien Category
	Sale price
	Purchaser name
	Purchaser address
	ID type provided
	ID information
City notification	Time of Tow Request
	Date of Tow Request
	Agency that initiated Tow Request
	Officer badge number, if applicable
Contractor notification	Time that Tow Request was received
	Time that Tow Car arrived on site
Hold information	Field indicating whether vehicle on Hold
	Name and/or badge number of officer who authorized the release for holds requiring written release authorization

Data Element	Required Field
	Date of release from hold for holds requiring written release authorization
	Time of release from hold for holds requiring written release authorization

Once City has reviewed the initial data model, it shall request Contractor in writing to make any modifications it considers vital to the system. Contractor shall incorporate the City's comments and resubmit the data model for the City's approval.

10.5 Handheld Devices

Within 180 days of the Effective Date of this Agreement, or other date approved in writing by City, Contractor shall provide handheld devices to be used by its Employees at its Primary and Secondary Storage Facilities. These devices shall provide real-time access to a limited number of specified fields in the TVMS in order to allow Contractor's Employees to real-time query data on impounded vehicles in accordance with the standards set forth in Section 15.5(11) of this Appendix A. The fields available for such queries shall include but are not limited to vehicle license number, VIN, date of tow, and the Tow Request ID. Contractor's handheld devices shall also be able to scan and read ID tags (bar-code, RFID, etc.) so that the devices can be used for inventory management of towed vehicles stored at the Secondary Storage Facility. Contractor shall propose its recommended handheld device to the City for approval prior to purchase.

Contractor shall, at its sole expense, provide the City with up to three (3) handheld devices (as requested by the City) that are identical to the devices to be used by Contractor's Employees. Contractor shall be responsible for any ongoing license fees, airtime charges, or other related costs to use these devices.

11. Facilities Requirements

11.1 Designated Facilities

Contractor shall use the Designated Facilities for all service requirements of this Agreement, except as otherwise approved in advance in writing by City. The location or relocation of any Designated Facility shall be subject to prior written approval by City. City hereby approves the current location of all Designated Facilities. Contractor may use Designated Facilities for towing and storing vehicles that are not towed or stored at the request of the City with the prior written approval of City and subject to any conditions imposed in such approval. Contractor may allow Employee and vendor parking at Designated Facilities, subject to any limitations set forth in Appendix D, so long as it does not interfere with Contractor's performance of towing and impound services to all standards and requirements of this Agreement.

(a) Customer Service Center

The Customer Service Center shall provide a location for Customers recovering vehicles in person to pay for towing and storage charges, Citation fees and penalties, and other applicable fees, and/or to process any documentation required for vehicle release. The Customer Service Center shall be open to the public twenty-four (24) hours per day, 365 days per year. If the Customer Service Center is relocated outside of the Hall of Justice at 850 Bryant Street, Contractor shall provide a security guard in any area open to the public at all times that such facility is open to the public at its sole expense. The Customer Service Center must be located at or near the Primary Storage Facility.

(b) Primary Storage Facility

(i) Authorized Facility

City hereby approves the lot at 450 7th Street as a Primary Storage Facility.

(ii) Vehicle Storage and Retrieval

Contractor must provide a covered area at the Primary Storage Facility where Customers can wait while their vehicle is being retrieved. The Primary Storage Facility shall be open twenty-four (24) hours per day, 365 days per year.

(iii) Tows to Primary Storage

Contractor shall take all towed vehicles to the Primary Storage Facility for short-term storage if they are not subject to a Police Hold or are not taken directly to the Secondary Storage Facility. Contractor shall store all towed vehicles at the Primary Storage Facility for twenty-four (24) hours after being towed, unless vehicles are required by this Agreement to be directly towed to the Secondary Storage Facility. Vehicles stored at the Primary Storage Facility may be moved to the Secondary Storage Facility after the first twenty-four (24) hours. Contractor shall ensure that it transfers vehicles from Primary to Secondary Storage frequently enough to ensure that there is, at all times, sufficient space for newly-towed vehicles to be received at the Primary Storage Facility. Contractor shall not conduct any vehicle maintenance or vehicle parts sales at the Primary Storage Facility, except for maintenance of forklifts or other lot operations equipment.

(c) Secondary Storage Facility

(i) Authorized Facility

City hereby grants Contractor a license to occupy and use the Property at Pier 70 as a Secondary Storage Facility as of the Effective Date of the Agreement during the Term of and so long as the Contractor complies with the terms and conditions of Appendices C and D.

(ii) Vehicle Storage and Retrieval

Contractor shall use the Secondary Storage Facility to store vehicles, including vehicles towed directly to the Secondary Storage Facility and most vehicles which are not picked up by the public within twenty-four (24) hours. Contractor shall conduct vehicle lien sales at this location. This facility shall be open to the public from 8:00 a.m. to 6:00 p.m. Monday through Friday. Outside of operating hours, Contractor shall secure the Secondary Storage Facility using security personnel. All vehicles must be available for retrieval from the Secondary Storage Facility by Contractor's staff twenty-four (24) hours per day, 365 days per year, with the exception of the following categories of vehicles: (1) type II vehicles (more than 8,500 lbs. but less than 26,500 lbs., trucks, buses, and unattached trailers); (2) type V vehicles (more than 26,500 lbs. ,trucks, buses, and unattached trailers; (3) stolen recovery vehicles (vehicles stolen and recovered by SFMTA or SFPD); (4) hit and run vehicles (vehicles involved in hit and run accidents); (5) accident vehicles (vehicles involved in accidents and towed by the SFMTA or the SFPD); and (6) abandoned/missing parts vehicles (vehicles abandoned by owner/driver and missing parts).

(iii) Tows to Secondary Storage

Contractor shall tow all Scofflaw, arrest, accident, Abandoned, recovered stolen vehicles, oversized vehicles, SFPD STOP Administrative Police Hold vehicles, disabled vehicles, dilapidated vehicles and other vehicles as directed by the City directly to the Secondary Storage Facility. The specific policies for whether vehicles are towed to the Primary Storage Facility or directly to the Secondary Storage Facility may be changed at any time subject to City's prior written agreement.

(iv) Facility Management

Contractor agrees to assume all responsibilities for use of storage facilities at Pier 70 in accordance with the License Agreement attached hereto and incorporated by reference as Appendix D, and to be bound by all covenants, terms and conditions of the Port MOU, with the exception of SFMTA's obligations under Section 2 of the Port MOU, during the term of Appendix D.

Contractor shall manage the Secondary Storage Facilities to meet the following guidelines:

(1) Contractor shall remove vehicles that have been legally cleared for disposal on a weekly basis.

(2) Contractor shall, at a minimum, hold a vehicle lien sale auction once a week.

(3) Vehicles shall be placed in such a way that no more than four (4) vehicles shall need to be moved to clear a passage for any vehicle.

(4) Two (2) feet of clearance space shall be maintained between the sides of all vehicles.

(5) The Secondary Storage Facility personnel shall comply with all municipal, state, and federal codes and safety regulations at all times.

(6) The Secondary Storage Facility shall be clean and maintained at all times.

(7) Facilities shall be screened from public view except for necessary gates, and except for, during the Term of Appendix D, the fence along the waterfront of Parcel B.

(8) Gates shall be at least eight (8) feet high and maintained in good condition.

(9) The parking and storage surface shall be maintained in accordance with all requirements of Appendices B, C and D.

(10) Security systems, including ample lighting and a surveillance system, shall be in place and operational at all times for the entire occupied area.

(11) Contractor shall not permit the public to walk through the lot unescorted by an employee of Contractor.

(d) Central Dispatch

Contractor's Central Dispatch facility shall operate twenty-four (24) hours per day, 365 days per year. City hereby approves any location of Central Dispatch at the Primary Storage Facility or at Contractor's Headquarters Office, so long as Central Dispatch is located within the City and County of San Francisco.

(e) Changes in Facilities

(i) Approval

City may approve relocation of Designated Facilities, including shifting Contractor's operations between existing Designated Facilities, terminating the use of one or more Designated Facilities, or adding new Designated Facilities. Any such relocation or change to Designated Facilities shall require prior written approval of City.

(ii) Service Standards

In the event that City approves the relocation of any Designated Facility, the parties acknowledge that certain response times and maximum charges contemplated by this Agreement may require modification to take into account the changed geographic circumstances of Contractor's operations. Any written approval of a change to the Designated Facilities listed in this Agreement shall include a revised schedule of fees and/or response times to which the parties have agreed as part of the relocation, if necessary.

(iii) Consolidation

Contractor has relocated the Customer Service Center and Primary Storage Facility to a single location at the 450 7th Street site. Should City cease to use Contractor for towing services prior to February 28, 2015, the terms for City's continued use of the 450 7th Street property are set forth in Appendix G.

11.2 Property Maintenance Requirements

All costs associated with maintenance of Designated Facilities shall be the sole responsibility of the Contractor.

All open areas within the Designated Facilities used for vehicle storage shall be maintained in a clean, secure, neat, and visually presentable manner. Contractor shall not dismantle or crush vehicles or remove vehicle fluids on the any of the facilities to be used in the performance of this Agreement except in compliance with environmental regulations and the applicable requirements of Appendices B, C, and D. Any removal of fluids from vehicles shall be conducted in a manner that complies with all requirements of this Agreement, and may

only be performed by a licensed contractor, and into portable containers that are immediately removed from the facility.

11.3 Facility Security

Contractor shall store vehicles in such a manner as to prevent damage to vehicles and to vehicle contents. Contractor shall provide adequate security at the Designated Facilities to ensure that vehicles and vehicle contents are protected at all times. Upon the Effective Date of the Agreement, Contractor shall maintain a camera-based security system for Designated Facilities at its sole expense which, within ninety (90) days of the Effective Date, shall be viewable by management at SFMTA. Contractor shall provide to the City a proposed plan for security systems at all Designated Facilities within ninety (90) days of the Effective Date of this Agreement ("Security Plan"). The Security Plan shall be approved and adopted as part of the Operations Plan as provided in Section 14 of this Appendix A. All costs associated with security at Designated Facilities shall be the sole responsibility of Contractor.

11.4 Protection of Vehicle and Contents

Contractor shall provide secure storage for any personal property removed from a vehicle in its possession. Within ninety (90) days of the Effective Date of this Agreement, Contractor shall submit a plan to securely store all personal property in a vehicle, to inventory and secure personal property that is stored outside of the vehicle if it cannot be securely stored inside the vehicle, and to dispose of unclaimed personal property ("Personal Property Plan"). The Personal Property Plan shall be approved as part of the Operations Plan as provided in Section 14 of this Appendix A. Personal property not claimed by the time the associated vehicle is lien sold shall be properly disposed of by any legally authorized disposal method approved by the City. Contractor shall not be responsible for retaining personal property (for the purposes of personal property release as defined in Section 4.3) after the DMV-issued lien sale authorization date (lien sale "clear date").

11.5 Lien Vehicle Storage

All vehicles upon which Contractor issues lien holds shall be stored primarily at the Secondary Storage Facility. With the exception of Lien 3 Vehicles, which must be held for ten days after the actual date of sale pursuant to Civil Code Section 3071(k), all vehicles that are auctioned or sold for dismantling shall be removed from the Designated Facilities within one (1) week after the date of sale. Lien 3 Vehicles shall be removed from the Designated Facilities within 14 days of the date of sale.

11.6 Right to Inspect

Any authorized representative of the City has the right to inspect the Designated Facilities at all times for the purpose of evaluating Contractor's performance pursuant to this Agreement. City officials and inspectors shall have the right to conduct periodic site visits, during reasonable business hours, to inspect for permit compliance or to respond to citizens' complaints. City officials and representatives shall have unrestricted access to all of the Designated Facilities subject to permits or licenses to make whatever announced or unannounced visits they deem appropriate.

12. Fees, Payments and Credits

12.1 Payments Due to City

(a) Referral Fee

Contractor shall submit to the City a Referral Fee of $20 per tow, excluding dropped tows as described in Appendix A, Section 4.2. The Referral Fee shall be the same for every type of vehicle, and shall increase each twelve (12) month period on each July 1st by the Consumer Price Index for the San Francisco Region as published by the United States Department of Labor, Bureau of Labor Statistics on January 1. Adjustments will be rounded to the nearest twenty-five cents ($0.25). No Referral Fee shall be paid for:

(1) Vehicles owned by the City under the jurisdiction of the SFMTA or the SFPD, or any other Courtesy Tow performed pursuant to Section 2.4 of this Appendix A, and

(2) Vehicles for which a waiver of towing, storage, transfer and/or lien fees is issued by SFMTA, DPH or SFPD.

(b) Percentage Fee

Contractor shall submit to the City a percentage fee of one percent (1%) on annual Gross Revenues from all money collected during the term of this Agreement. This fee shall be initially paid in the fifteenth (15th) month after the Agreement is signed, in the thirteenth (13th) month thereafter for the previous twelve (12) month term, and yearly thereafter.

(c) SFMTA Administrative Fees

Prior to releasing the vehicle, Contractor shall collect a pass-through SFMTA Administrative Towing Fee for all vehicles recovered by the vehicle owner. The amount of the SFMTA Administrative Towing Fee is subject to change in accordance with the provisions of San Francisco Transportation Code § 305. In addition, prior to releasing the vehicle, Contractor shall collect a pass-through daily SFMTA Administrative Storage Fee for stored vehicles based upon the number of days the vehicle has been stored prior to recovery by the vehicle owner. No Administrative Fee shall be collected for:

(1) Any vehicle owned by the City under the jurisdiction of the SFMTA or the SFPD, or any other Courtesy Tow performed pursuant to Section 2.4 of this Appendix A.

(2) Any vehicle for which the Customer produces a written waiver of the SFMTA Administrative Fee issued by SFMTA, DPH or the SFPD.

(d) SFPD Traffic Offender Fee

If applicable, when a vehicle is sold at a lien sale and there are funds to satisfy all other fees as defined in Section 12.3(c) of this Appendix A, then Contractor shall pay to the SFPD or into an account designated by the SFPD an SFPD Traffic Offender Fee in an amount set by the San Francisco Police Commission. City and Contractor may agree in writing to utilize a mechanism other than the process described in Section 12.1(g) for collection of the SFPD Traffic Offender Fee.

(e) Citation Fees

Contractor shall collect payments of Citation fees from Customers with towed vehicles and from members of the public whose vehicles have not been towed, in accordance with all requirements set forth in this Agreement.

(f) Liquidated Damages and Fines

Contractor shall pay to City the amounts of any liquidated damages or fines assessed pursuant to this Appendix A, Section 15 and Appendix D, Section 6.7.

(g) Deposit of Fees Due to City

Except as otherwise specified herein, Contractor shall deposit all funds collected under this Section 12 within twenty-four (24) hours of receipt into an account specified by the City, Monday through Friday, not including weekends and holidays. Any funds with a deadline for deposit which falls on a weekend or a holiday shall be deposited no later than the next business day. All funds due to City under this Section shall be paid by Contractor without prior demand by the City and without any deduction, setoff, or counterclaim whatsoever, except as expressly provided herein. The parties may agree upon alternative procedures for Contractor's payment to City, but any such change must be approved in advance, by City, in writing.

(h) Payment Shortages

If Contractor fails to collect all amounts due from a Customer, Contractor shall be responsible to reimburse the City for any amounts not collected as required herein, unless the failure is caused solely by the negligence of City or a failure of the CMS. Contractor shall follow any procedures required by the City to report overages or shortages.

12.2 Credits Due to Contractor

(a) City Waivers

In the event that (i) SFMTA, DPH or the SFPD determines pursuant to a post-storage hearing as required by Vehicle Code § 22852 that the towing, storage, transfer, lien and/or other fees shall be waived for a vehicle, or (ii) SFMTA, DPH or the SFPD waives the fees for the towing, storage, transfer and/or lien of a vehicle, or (iii) SFMTA or the SFPD waives the fees for the towing and storage of a vehicle for one of the reasons enumerated in §§ 10C.1, 10C.8 or 10C.8-1 of the San Francisco Administrative Code, then no such fees shall be charged by Contractor to the owner or operator of such vehicle. In the event that the owner or operator of a vehicle has paid Contractor for towing, storage, transfer, lien and/or other fees and the City subsequently waives the tow, storage, transfer, lien and/or other fees for that owner or operator, then Contractor shall directly reimburse the owner or operator in full the amounts previously paid to Contractor for such vehicle. When the City waives towing, storage, transfer and/or lien fees as provided for in this section, the City shall pay Contractor only the towing, storage, transfer and/or lien fees that would have been owed by the vehicle owner or operator, and such fees shall not include any SFMTA Administrative Fees as Contractor might otherwise charge. When the City waives storage fees as provided in this Section, the City shall pay Contractor storage fees for each such vehicle as set forth above for the first three (3) days of storage. There shall be no storage charge for the fourth (4th) through the ninth (9th) days of storage. For the tenth (10th) storage day and all days thereafter, City shall pay Contractor ten dollars ($10.00) per day for the storage of such vehicles. Adjustments and credits and payments due to Contractor as a result of City waivers shall be calculated and submitted to the City through the City's claims process and are to be paid within one (1) month from the date of submission by the Contractor. There shall be no late payment charges or interest assessed against City for late payment.

When SFMTA or the SFPD orders Contractor to release a vehicle pursuant to Vehicle Code § 22654(e) relating to authorization for moving a vehicle otherwise lawfully parked, City shall pay the cost of the tow and storage charges for a period not to exceed seventy-two (72) hours.

(b) Police Investigative Hold Storage Fee

Contractor shall not charge or receive any fee or other reimbursement or credit from the City for the towing, storage, transfer or lien of any Police Investigative Hold vehicle, except when the number of Police Investigative Hold vehicles in storage on any day exceeds limit of 350 vehicles. SFPD shall pay Contractor a storage fee of ten dollars ($10.00) per day per vehicle in excess of 350 Police Investigative Hold vehicles in storage at Contractor's facilities at any one time. The SFPD will be responsible for these fees and the Contractor shall not deduct any Police Hold storage fees due from any money owed to SFMTA under this contract. For the purposes of this Section 12.2(b), "Police Investigative Hold" vehicles shall not include NO ID vehicles described in this Appendix A, Section 4.5.

Notwithstanding the foregoing, in the event a vehicle is towed without a Police Investigative Hold and a Police Investigative Hold is subsequently placed on the vehicle, the SFPD shall immediately notify Contractor in writing of the Police Investigative Hold status change. The SFPD shall pay or require the owner or operator of the vehicle to pay the Contractor only the tow, transfer, lien and/or other fees accumulated from the date of tow to the date the Contractor is notified of the Police Investigative Hold by the SFPD and that would otherwise be owed by the vehicle owner or operator, and such fees shall not include any SFPD or SFMTA Administrative Fees. In addition, the SFPD shall pay or require the owner or operator to pay storage fees for any days from the tow date to the date Contractor is notified of the Police Investigative Hold by the SFPD. For storage amounts paid by the SFPD, storage charges shall be calculated for each such vehicle as set forth above for the first three (3) days of storage. There shall be no storage charge for the fourth (4th) through the ninth (9th) days of storage. For the tenth (10th) storage day and all days thereafter, the SFPD shall pay Contractor ten dollars ($10.00) per day for the storage of such vehicles.

(c) Non-Towed Vehicle Citation Collection Fees

Contractor shall be entitled to a credit for any collection fees due pursuant to Section 6.2(c) of this Appendix A.

(d) Other Offset Allowances

At any time during the Term of this Agreement, City may elect to fund certain property maintenance, construction, improvements, systems development or staffing related to City towing and impoundment operations that are not the responsibility of Contractor under this Agreement ("Projects"). City may require Contractor to implement any such Project and offset actual costs of the Project against funds owed to the City.

No Project may be implemented without the prior written approval of the City, and all Project implementation must be in accordance with specifications, maximum costs and all other requirements provided in writing by City. Contractor shall comply with City's direction as to which category of funds collected pursuant to this Section 12 may be used to offset Project costs.

12.3 Charges to Customers

(a) Maximum Towing and Storage Charges

No lien for storage of a towed vehicle may exceed authorized charges for the maximum period of storage allowed by applicable laws, including but not limited to Vehicle Code §§ 22851.6, 22851.3, California Civil Code §§ 3067-3074 and any other applicable statutes enacted during the term of this Agreement. Contractor shall not charge any Customer amounts in excess of the amounts set forth in the rate schedule adopted pursuant to this Agreement and attached hereto as Appendix F without SFMTA's prior written approval of any change to existing rates and fees or the imposition of new fees. The rates and charges established by this Agreement shall apply to all vehicles handled by Contractor within the City, whether the vehicle is towed at the request of SFMTA, SFPD or DPH or is stored on any Designated Facility.

Towing and storage charges are subject to adjustment annually, on July 1, in direct proportion to the increase or decrease in the "Consumer Price Index for Urban Wage Earners and Clerical Workers", unadjusted data for all items for the twelve (12) months ending April of the current year, as published by the United States Department of Labor, Bureau of Labor Statistics. Adjusted charges will be rounded to the nearest twenty-five cents ($0.25).

In the event storage charges accrue on a vehicle because of Contractor's failure to provide SFMTA or the SFPD, as applicable, with either an "Unreleased Vehicle Report" (as required in Appendix A, Section 13.2(a)(ii)), a vehicle description or a verification of the VIN, such charges shall be null and void and neither the City nor the owner of said vehicle shall be responsible for those charges.

(b) Vehicle Transfer Fee

If vehicle is not retrieved within twenty-four (24) hours of the tow, Contractor may charge a one-time vehicle transfer fee as set forth in Appendix F to move the vehicle between Designated Facilities. Contractor shall not assess a transfer fee for any vehicle that is towed directly to the Secondary Storage Facility.

(c) Application of Funds Collected

When vehicle title is transferred to the Contractor and the vehicle is subsequently sold, any funds collected from the sale of a vehicle shall be considered to have gone through the lien sale process using the average days from the tow date to lien sale date for the relevant vehicle classification (Lien 2 or 3) for the previous calendar year. The sale proceeds shall be applied first to paying storage, towing and legally authorized lien processing costs, and all remaining funds shall be applied toward payment of 1) Delinquent Citations, 2) the SFMTA Administrative Fee, and 3) the SFPD Traffic Offender Fee, in that order.

12.4 Additional Fees Proposed by Contractor

Except for periodic adjustments provided for in Section 12.3(a) above, Contractor must notify the City in advance of any proposed fee that relates to any services performed under this Agreement or services performed for owners of vehicles towed or buyers of vehicles sold pursuant to this Agreement. All Contractor fees must be approved by the City.

12.5 Account Reconciliation

Contractor shall monitor monthly any monies due to City and any monies due to Contractor and report such amounts on the Monthly Finance Report. At the end of each contract year, City and Contractor shall review all Monthly Finance Reports for the preceding year and conduct a formal reconciliation of payments, reimbursements and credits due under this Agreement. Upon verification by SFMTA in the course of the formal reconciliation, the City shall reduce any payments owed by Contractor to City by the amount of any credits due to Contractor from City. If the payments due to the City are greater than any credit due to the Contractor, SFMTA shall bill the Contractor for the remaining payment balance owing. Contractor shall remit payment for the balance due within ten (10) days of the billing date. If the payments due to the City are less than the total

credits due to the Contractor, City shall either, in City's sole discretion, pay the Contractor for the amount owed or hold over a credit to be applied against the next payment due to the Contractor. Any challenges to the amount owed by City must be memorialized in writing within 60 days of the resolution of the formal reconciliation process. Nothing in this Section 12 waives any rights of City under Section 7 of the Master Agreement.

12.6 Contractor Compliance Audit Fund

(a) Contractor Contribution

Within 30 days of the effective date of this Second Amendment, and within 30 days of each anniversary of that effective date during the Term of the Agreement (the "Anniversary Date"), the Contractor shall deposit money (the "Audit Payment") into a Contractor Compliance Audit Fund to be used by the SFMTA for the purposes of auditing the Contractor in areas to be determined by the SFMTA at the time of each audit. The initial Audit Payment shall be $40,000.

(b) Contribution Adjustment

The Audit Payment shall be adjusted in direct proportion to the percentage increase in the current Consumer Price Index for Urban Wage Earners for the San Francisco Bay Area ("CPI") for the month immediately preceding the applicable Anniversary Date ("Current Index") over the CPI for the month of June 2010 ("Base Index"). In no case shall the Audit Payment, as adjusted, be less than the Audit Payment for the previous year. If the Current Index has increased over the Base Index, the amount of the Audit Payment shall be determined by multiplying the amount of the initial Audit Payment by a fraction, the numerator of which is the Current Index and the denominator of which is the Base Index, as follows:

$$\frac{\text{Current Index}}{\text{Base Index}} \times \text{initial Audit Payment} = \text{Adjusted Audit Payment}$$

Any monies in the Contractor Compliance Audit Fund that are unused during the term of the Agreement shall be returned to the Contractor within 60 days of termination of this Agreement.

13. Reporting and Records Requirements

13.1 TVMS Records

(a) Records of Transaction

Contractor shall maintain consecutively numbered electronic records of each transaction involving the removal, impoundment, and disposition of all vehicles towed pursuant to this Agreement. Each electronic record shall contain the following information:

(1) Date and time of Tow Request;

(2) Date, time and location of tow and identity of Tow Car operator;

(3) Make, model, year and VIN of vehicle towed;

(4) Name and address of individual to whom vehicle is released or sold;

(5) Inclusive dates of and charges for impoundment; and

(6) Date and manner of vehicle disposition and income received.

(b) Weekly Management Report

Contractor shall provide a weekly Management Report to include the number of Tow Requests, number of Claims filed, number of vehicles sold at lien sales and the number of vehicles returned to the owner during the previous seven (7) day period.

(c) Monthly Management Reports

Contractor shall also provide a monthly Management Report in a form approved by the City. The approved format for each reporting item may include (but is not limited to), standardized reports (in paper or electronic format), utilities to query and download data on a variable periodic basis, or direct access the TVMS querying and reporting capabilities for ad hoc use by the City. Except as otherwise authorized, in writing, by City, Contractor shall provide the monthly Management Reports by the 10th of each month, or on the next business day if the 10th is a weekend or a holiday recognized by the City. The Reports shall include, but shall not be limited to, items such as:

(1) Tow and service response times (Monthly Response Time Report)

(2) Number and type of tows (Monthly Tow Summary Report)

(3) Information on vehicles retrieved by date and time (Monthly Released Vehicles Report)

(4) Information on vehicles awaiting lien clearance (Monthly Lien Status Report)

(5) Information on vehicles lien sold by number of days in storage and Lien Category (Monthly Lien Sold Summary Report)

(6) Information on vehicles sold to dismantlers (Monthly Lien Sold Buyer Report)

(7) Information on vehicles purchased by the public (Monthly Lien Sold Buyer Info Report)

(8) Number of vehicles in storage by reason category for tow, by department requesting tow, or by date towed (Monthly Storage Summary Report)

(9) Monthly listing of all details in the TVMS system for every tow performed that month (Monthly Tow Detail Report)

(10) Report of transfers of vehicles between Designated Facilities (Monthly Vehicle Transfer Report)

(d) Auction Report

Contractor shall provide a weekly Auction Report to the City that includes detailed information for all lien sold vehicles. For each vehicle, the Report must include the following information:

(1) Vehicle Identification Number (VIN)

(2) License plate number

(3) Year

(4) Model

(5) Lien Category

(6) Actual sale amount

(7) Purchaser name and address

(8) A detailed description of the distribution of proceeds from vehicle sale

(9) Identify vehicles not sold that are held for future lien sale or for disposal

13.2 Minimum Required Reporting

(a) Daily Reports

(1) Police Hold Report of Police Hold vehicles in excess of 325 vehicles (§ 4.6(d))

(2) Unreleased Vehicle Report

(b) Weekly Reports

(1) Auctioneer Report (§ 8.9(b))

(2) Weekly Management Report (§ 13.1(b))

(3) Auction Report (§ 13.1(d))

(4) Police Hold Report (§ 4.6(d))

(5) Lien 1/Abandoned Vehicle Report

(c) Monthly Reports

(1) Customer Service Report (§ 5.1(c)(v))

(2) Claim/Complaint Status Report (§5.2(c))

(3) Management Contact List (§ 8.7)

(4) Monthly Management Report (§ 13.1(c))

(d) Quarterly Reports

(1) Subcontractor Performance Audit Report (§ 8.2(c))

(e) Additional Reports

City may provide Contractor with a list of any additional required reports. Once the City submits its list of required reports to Contractor, Contractor shall have thirty (30) days to provide the requested reports to the City unless otherwise specified. The City reserves the right to request up to twenty (20) new reports or modifications to existing reports during the term of this Agreement.

13.3 Records Maintenance

This Section 13.3 shall survive termination of this Agreement. Contractor shall maintain digital photos that are not associated with any Claim for a period of two (2) years, except as otherwise agreed by City in writing. Digital photos related to a Claim shall be retained with the Claim file for a period of five (5) years. The retention of audio tapes is governed by Section 1.3(b) of this Appendix A. Contractor shall maintain all other Records generated pursuant to this Agreement for a period of five (5) years following expiration of this Agreement.

Contractor shall respond to requests from City for information regarding services provided under this Agreement within forty-eight (48) hours. If the Records requested are not capable of being produced within that time, the forty-eight (48) hour response shall indicate where the Records are located and when they can be made available for City's review, which shall in no event be longer than fourteen (14) days unless otherwise agreed. Contractor shall respond to requests for Records from City by providing Records in any format in which they are maintained, including but not limited to paper, audio and electronic formats.

14. Operations Plan

14.1 General Provisions

Contractor shall submit the elements of an Operations Plan as listed in Appendix B in accordance with the requirements of this Agreement. The final approved version of any Operations Plan element and any subsequent modifications approved in accordance with this Section shall define service standards for the performance of this Agreement, and are hereby incorporated into this Agreement as Appendix B as though fully set forth herein.

14.2 Approval Process

All elements of the Operations Plan shall be subject to City review and approval. All Operations Plan elements must be initially submitted no later than the deadlines set forth in Appendix B for each Operations Plan element. The deadline for any Operations Plan element described in the Agreement may be extended by written approval

of SFMTA upon the request of and a showing of good cause by Contractor; however, the extension of any deadline for the Operation Plan elements designated in Appendix B as Pier 70 Operation Plan Elements also requires written approval of the Port during the term of Appendix D. City shall have sixty (60) days to review each element submitted, and either approve it as submitted or request revisions. Contractor shall respond to a request for revisions within twenty (20) days. City will have fifteen (15) days to either approve the revised Plan element or request further revisions. Contractor and City shall from this point on have five (5) days to either approve the revised Plan element as submitted, submit further requests for revisions or to respond to requests for revisions. Each revision must reflect tracking of document versions, including date and source of revisions, and each exchange of versions between the parties shall be accompanied by an executed document substantially in the form of Appendix B.

14.3 Line Item Approval

Pending the completion of the approval process of an entire Operations Plan element, Contractor may request line-item approval of certain portions of that Operations Plan element. If City does not respond to such request for line-item approval by Contractor within fourteen (14) days, the request for line-item approval shall be deemed denied.

14.4 Final Operations Plan

When an element of the Operations Plan is accepted by City, the final version of that element must be submitted to City in PDF format. Following City acceptance of Plan elements, the final Operations Plan and any subsequent modifications shall be distributed to all subcontractors.

14.5 Subsequent Modifications to Operations Plan

Contractor shall review the Operations Plan every six (6) months, and shall propose modifications as necessary to any element of the Operations Plan needed to improve service delivery. Modifications to the Operations Plan shall be approved through the process described in this Section 14. Each finally approved Operations Plan modification must identify the document version and date. Any subsequent modification of the Operations Plan shall supersede the prior version and be incorporated into this Agreement by reference when approved in accordance with this Section.

15. Liquidated Damages

15.1 Assessment of Liquidated Damages

Liquidated damages as described in this Section may be imposed by City for violations of the provisions of this Agreement. Failure by City to impose liquidated damages for specified violations shall not be a waiver of the right to enforce this Section, nor shall it constitute a waiver of any other right of City under this Agreement. No single act or omission by Contractor which incurs fines under Section 6.7 of Appendix D may be used as the basis for assessing any liquidated damages under this Section 15. The total amount of liquidated damages that City may collect under this Appendix A, Section 15 shall be limited to three hundred sixty thousand dollars ($360,000) per year. For the purposes of this Section 15, written notice by City of a violation shall constitute enforcement even though the City may not assess liquidated damages at the time of such initial written notice of violation.

15.2 Damages Calculation

All contract violations listed in this Section 15 are subject to the $360,000 per year limit set forth above. In addition, each type of violation which is subject to liquidated damages under this Section 15 is followed by the designation of one of the following categories: [A], [B], [C] or [D], and depending on the category shall be subject to the following definitions and limitations:

[A]: The measure of liquidated damages in this category **[A]** shall be subject to no limitation other than the $360,000 per year limitation stated above.

[B]: Liquidated damages in this category **[B]** may only be enforced within forty-five (45) days of the act or omission which gave rise to the City's right to collect liquidated damages.

[C]: Liquidated damages in this category **[C]** may be assessed for a period of no more than forty-five (45) days for continuing violations.

[D]: Liquidated damages in this category **[D]** may only be assessed for the immediately preceding audit period and City must provide Contractor with notice of any violation within sixty (60) days of City's completion of the audit report pursuant to Appendix A, Section 12.6.

15.3 Staffing

If Contractor fails to comply with the following staffing requirements set out in the Agreement, excluding requirements related to subcontractors, City may collect damages of $250 per occurrence, not to exceed $1,000 per day for each day that the required staff is not on duty, and $250 for each eight (8) hour training session per individual that is not provided as required by the Agreement. Requirements that are subject to this subsection include:

(1) Failure to provide required staffing at Central Dispatch (§ 1.2) **[B]**

(2) Failure to adhere to the window staffing requirements, except wait time requirement (§ 5.1(c)(ii)) **[B]**

(3) Failure to have a Customer Service Representative on duty during designated hours (§ 5.1(c)(iii)) **[B]**

(4) Failure to comply with the minimum training standards (§ 8.3) **[D]**

(5) Failure of a manager to be available (§ 8.7) **[B]**

15.4 Subcontracting

If Contractor fails to comply with the following requirements for the use of subcontractors as set out in the Agreement, not including equipment and communication requirements related to subcontractors, City may collect damages in the amounts specified below:

(1) Failure to include the requirement that subcontractors hold current Tow Car and Tow Firm permits in subcontracts and to check compliance at the time of executing the subcontract. (§ 8.2(d)): $500 per occurrence **[D]**

(2) Failure to perform quarterly audits of permits and license status of Tow Car operators (§ 8.2(c)): $500 per occurrence **[D]**

(3) Violation of the uniform requirements (§ 8. 2(e)): $100 per occurrence **[B]**

(4) Failure to replace the auctioneer annually without the City's prior, written approval (§8.9(a)): $1000 per occurrence **[B]**

15.5 Equipment

If Contractor fails to comply with the following requirements for Tow Equipment set out in the Agreement, City may collect damages in the amounts specified below:

(1) Failure to provide two (2) dedicated telephone lines for more than an hour in a twenty-four (24) hour period within thirty (30) days of Effective Date of Agreement and every day thereafter (§ 1.3(a)): $500 per day **[B]**

(2) Failure to provide functional recording system and to store recordings for 120 days or longer time as required by City (§ 1.3(b)): $500 per day **[C]**

(3) Failure to provide Tow Cars at site of tow with appropriate equipment (§9.1): $250 per tow **[B]**

(4) Failure to have GPS tracking system in place in accordance with specified time limits and with all required software licenses in place for required GPS functionality (§ 9.2): $500 per day of delay **[B]**

(5) Failure of the GPS to operate ninety-seven percent (97%) of the time during a monthly reporting period (§ 9.2): $500 per occurrence **[D]**

(6) Failure to provide radios (§ 9.3): $150 per reported occurrence **[B]**

(7) Failure to provide the required hardware, software, and data lines to create and store electronic tow inventory slips within ninety (90) days of the Effective Date (§ 9.6): $500 per day for each day of delay **[B]**

(8) Failure to maintain adequate security in accordance with the Security Plan (§ 11.3): $250 per occurrence, as defined in the Security Plan **[D]**

(9) Failure to maintain standards and connections required for computer hardware and software system within specified time limits (§ 10): $500 per day delayed **[B]**

(10) Failure to have handheld device solution in place as required (§ 10.5): $500 per day of delay **[B]**

(11) Failure of the handheld device solution to operate ninety-seven percent (97%) of the time during a monthly reporting period (§ 10.5): $500 per occurrence **[D]**

(12) Failure to have IVR Telephone system in place within sixty (60) days of Effective Date (§ 6.3): $500 per day delay **[B]**

15.6 Response Times

If Contractor fails to comply with the following response times or deadlines set forth in the Agreement City may collect damages in the amounts specified below:

(1) Failure to answer call within 30 seconds or less with no busy signal for 95% of the calls, and within 90 seconds for the remaining 5% of the calls, during a given month (§ 1.2): $250 for each month in which Contractor fails to answer 95% of the calls within 30 seconds, and an additional $100 for each percentage point by which contractor fails to meet the 95% requirement in a given month; $250 for each month in which Contractor fails to answer the remaining 5% of the calls within 90 seconds **[B]**

(2) Failure to enter data into tow database within specified time limits ninety percent (90%) of the time (§ 3.1): $500 per audit period in which the ninety percent (90%) goal is not met, plus $250 for each additional percentage point by which Contractor fails to meet the ninety (90%) percent goal **[D]**

(3) Failure during any given month to respond to at least 94% of all Dispatch Tows within the designated time requirements (§ 2.1(a)), including any approved extension of time: $500 for each month in which Contractor fails to timely respond 94% of the time, and an additional $250 for each percentage point by which Contractor fails to meet the 94% requirement in a given month **[D]**

(4) Failure to respond to an Expedited Tow request within the designated time requirements, including any City-approved time extension (§ 2.2): $500 per calendar day. **[B]**

(5) Failure to respond to a Scheduled Tow Request (§2.1) or a request for a Regional Sweep (§ 2.3) at the agreed upon start time and location: $100 credit for each twenty (20) minute period or portion thereof, not to exceed $500 per calendar day. **[B]**

15.7 Record Keeping and Reporting Requirements

If Contractor fails to meet reporting and record keeping requirements listed below, City may collect damages in the following amounts:

(1) Failure to submit any report required by Section 13 or maintain any record required by this Agreement: $50 per day for each day that the record is not provided or maintained or the required report is overdue, not to exceed $250 per month per report. City agrees to notify Contractor if City becomes aware of any report required by Section 13 of this Appendix A that is overdue. **[B]**

(2) Failure to provide audio records within twenty-four (24) hours of City's request (§ 1.3(b)): $50 per day for each day that the record is not provided **[C]**

(3) Failure to furnish audit or waiver (authorizing DMV to release audits of Contractor) to the City within specified time limits (§ 12.6): $100 per day **[C]**

(4) Failure to submit copies of subcontractor agreements with required proof of insurance documents within five (5) days of the Effective Date of Agreement, or failure to submit subcontract amendments within five (5) days of any such amendments (§ 8.2(a)): $100 per day per subcontract, up to $3,000 per month for all subcontracts **[D]**

(5) Failure to notify the City prior to additions and deletions of towing subcontractor (§ 8.2(a)): $500 per occurrence **[D]**

(6) Failure to comply with notice requirements for any personnel changes within specified time limits (§ 8.6): $100 per occurrence **[D]**

(7) Failure to notify the Contract Monitor of an auction at least three (3) days prior to any auction, as specified, or to provide said Contract Monitor with the report information requested (§ 8.8(b)) $100 per occurrence **[B]**

(8) Failure to enter a towed vehicle record within three (3) days of the date of the tow (§ 10): $100 per towed vehicle **[A]**

(9) Failure to maintain the functionality of the TVMS ninety-nine percent (99%) of the time during a monthly reporting period as specified (§ 10.3): $500 per monthly reporting period in which the ninety-nine percent (99%) goal is not met, plus $250 for each additional percentage point by which Contractor fails to meet the ninety-nine (99%) percent goal **[B]**

(10) Failure to print and distribute receipts and notices as required by the City or any local, state or federal laws (§§ 6.6, 7.3): $250 per occurrence **[D]**

15.8 Plan Submittals

If Contractor fails to submit any element of the Operations Plan in accordance with the requirements of this Agreement and the deadlines for initial document submittals and revisions set forth in Section 14, Appendix A of this Agreement, City may collect damages of $250 per day for each day that the Operations Plan element is overdue. **[B]**

15.9 Customer Service Standards

If Contractor fails to meet the following Customer service standards as defined in the Agreement City may collect damages in the amounts specified below:

(1) Failure to have functional internet site elements implemented within specified time limits (§ 5.1(d), 6.4): $500 per day delay **[B]**

(2) Failure to keep internet site functional for public and City use at least ninety-seven percent (97%) of the time during a monthly reporting period between the hours of 6:00 a.m. and 12:00 a.m. (§§ 5.1(d), 6.4): $250 per month in which the ninety-seven percent (97%) goal is not met, plus $250 for each additional percentage point by which Contractor fails to meet the ninety-seven percent (97%) goal **[D]**

(3) Failure to accept the specified forms of payment (§ 6.1): $500 per occurrence **[D]**

(4) Failure to accept a payment of Citation fees for vehicles that have not been towed (§ 6.2(c)): $100 per transaction **[D]**

(5) Failure to have information available to the public as required, or as required by any local, state or federal laws (§ 5.3): $250 per posting requirement per day **[B]**

(6) Failure to meet the standards for telephone operator response time for customer service calls(§ 5.1(b)): $100 for each percentage point by which Contractor fails to meet any of the percentage level requirements in a given month **[B]**

(7) Failure to meet the standards for "in person" customer service wait times (§5.1(c)(ii): $100 for each percentage point by which Contractor fails to meet any of the percentage level requirements in a given month **[B]**

(8) Failure to respond to a Customer Complaint within seven (7) days, or a Customer Claim within fourteen (14) days (§ 5.2): $100 per day for each day delayed **[B]**

(9) Failure to release a vehicle to Customer's possession within one (1) hour of a Customer's compliance with all requirements for vehicle release (§ 5.1(c)(i), 4.4): $100 per occurrence, $50 credit to Customer per hour/fraction of hour of delay, not to exceed $45,000 per audit cycle **[D]**

(10) Failure to provide free shuttle service, one-way taxi fare or vehicle retrieval service (§ 4.4): $250 per occurrence, not to exceed $45,000 per audit cycle **[D]**

(11) Failure to provide hotline service for technical assistance to City. (§§ 9.6, 10.3): $200 per day **[B]**

(12) Failure to have remote electronic access tow inventory slip information available to City for more than one (1) day (§ 9.6): $200 per day **[B]**

(13) At any time following the implementation of the IVR system, failure of the IVR system to function three percent (3%) of the time from 6:00 a.m. to 12:00 a.m. during a monthly reporting period (§ 6.3): $250 per occurrence $250 per month in which the ninety-seven percent (97%) goal is not met, plus $250 for each additional percentage point by which Contractor fails to meet the ninety-seven percent (97%) goal **[D]**

15.10 Vehicle Handling Requirements

If Contractor fails to meet the following vehicle intake or handling requirements set forth in the Agreement City may collect damages in the amounts specified below:

(1) Contractor's failure to drop a vehicle when instructed to do so by the City officer present at the scene of the tow (§ 4.2): $500 per occurrence **[B]**

(2) Failure to provide Courtesy Tow or roadside assistance services to SFMTA or SFPD vehicles (§ 2.4): $100 per occurrence plus reimbursement of any expense associated with City's procurement of towing or roadside assistance services for vehicles subject to Courtesy Tows **[B]**

(3) Failure to hold a vehicle with Delinquent Citations that have been assessed penalties (§ 6.2(b)): an amount equal to the total amount of Delinquent Citations owed but not collected, plus $100 **[D]**

(4) Failure to visually inspect impounded vehicles and collect or confirm VIN within specified deadlines (§ 3.3(a)): $500 per occurrence, not to exceed $45,000 per audit cycle **[D]**

(5) Failure to notify the SFPD within specified time limits of any impounded vehicles in its possession where the license plate and the VIN do not match (§ 3.3(a)): $500 per occurrence **[D]**

(6) Failure to hold weekly lien sale auctions (§ 7.2): $1,000 per occurrence **[B]**

(7) If Contractor releases, sells or disposes of any vehicle in violation of the requirements of the Vehicle Code, or otherwise loses possession of or is unable to locate within its possession a vehicle that it has towed under this Agreement and if City directs Contractor to resolve a Claim after sixty (60) days by paying blue book value of the vehicle to the owner (§ 4.1): $1,000 per occurrence **[A]**

(8) Failure to provide City with information to update CMS with information on intake or release of vehicles within specified time limits (§9.5): $150 per day that release information is not provided, and $20 for each one (1) hour period that intake information is not provided, not to exceed $100 per towed vehicle, not to exceed $45,000 per year **[B]**

(9) Failure to maintain accurate personal property inventory in accordance with Personal Property Plan (§ 11.4): $250 per occurrence as defined in the Personal Property Plan, not to exceed $45,000 per audit cycle **[D]**

(10) Failure to provide adequate security for personal property removed from towed vehicle (§ 11.4): $500 per occurrence as defined in the Personal Property Plan **[D]**

(11) Failure to provide secured Police Hold storage facility as specified (§ 4.6(a)): $1000 per day **[A]**

(12) Failure to remove vehicle from Secondary Storage Facility within one (1) week of sale (§ 11.5): current daily storage fee per vehicle per day **[B]**

(13) Contractor's sale of a vehicle at an auction conducted under the Agreement to a Restricted Auction Participant in conjunction with Contractor's violation of the provisions of Section 8.9(c): $1,000 per prescribed sale or the blue book value of the vehicle sold, whichever is greater, plus all outstanding administrative fees and citations, if any, on the vehicle. [**A**]

15.11 Financial Obligations

If Contractor fails to meet the following financial obligations set forth in the Agreement City may collect damages in the amounts specified below:

(1) Failure to reimburse the City within five (5) days of the due date for the cost of the Contract Monitor (§ 8.8): $50 per day **[B]**

(2) Failure to reimburse the City within five (5) days of the due date for the cost of a City-appointed vehicle auctioneer (§ 8.9): $50 per day **[B]**

(3) Failure to deposit Referral Fee within specified time limits (§ 12.1(a), § 12.1(g)): $100 per day of delay in depositing fee **[B]**

(4) Failure to deposit percentage fee within specified time limits (§ 12.1(b)): $100 per day of delay in depositing fee, beginning on the fifteenth (15^{th}) month after the Effective Date of the Agreement **[B]**

(5) Failure to deposit SFMTA Administrative Fees within specified time limits (§ 12.1(c), § 12.1(g): $100 per day of delay in depositing fee **[B]**

(6) Failure to pay balance due within ten (10) days of receiving bill from City (§ 12.5): $100 for each day of delay in paying billed amount **[B]**

(7) Failure to collect any Mandatory Fee due to internet site or IVR system errors (§§ 6.3, 6.4): amount of uncollected Mandatory Fees due to the City which have not been assessed as liquidated damages pursuant to another subsection of this Section 15 **[D]**

(8) Failure to deposit all or any part of collected funds not identified in any other paragraph of this Section 15.11 within specified time limits (§12.1(g)): $500 per day delayed **[B]**

(9) Failure to maintain minimum balance in Claims Fund (Master Agreement § 12.4): $500 per day that balance is below minimum requirement **[D]**

(10) Failure to maintain minimum balance in Maintenance Deposit (Master Agreement § 12.3): ten percent (10%) APR or the maximum allowed by California law, whichever is greater, per day that balance is below minimum requirement, paid on the deficiency **[D]**

(11) Failure to timely make the annual payment to reimburse the City for the cost of the Contract Monitor (§ 8.9(a)): $100 per day for each day that payment is delayed **[B]**

(12) Failure to make timely annual payment into the Contractor Compliance Audit Fund (§12.6): $100 per day for each day that payment is delayed [B]

APPENDIX D
TO THE TOWING AGREEMENT
BY AND BETWEEN
THE CITY AND COUNTY OF SAN FRANCISCO
AND
TEGSCO, LLC, d.b.a. SAN FRANCISCO AUTORETURN
Granting a Revocable License for the Use of Certain Property on Pier 70, San Francisco, California

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APPENDIX D

TO THE TOWING AGREEMENT BY AND BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND TEGSCO, LLC, d.b.a. SAN FRANCISCO AUTORETURN

Granting a Revocable License for the Use of Certain Property on Pier 70, San Francisco, California

THIS REVOCABLE LICENSE TO ENTER AND USE PROPERTY ("License"), between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, acting by and through its Municipal Transportation Agency, Department of Parking and Traffic ("City" "DPT" or "Licensor"), and TEGSCO, LLC, a California limited liability company, d.b.a. San Francisco AutoReturn ("Licensee") is Appendix D to the Service Agreement and Property Use License for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles between City and Licensee, (hereinafter "Towing Agreement"), which is incorporated herein by reference as if fully set forth herein. Any capitalized term not defined herein shall have the meaning set forth in the Towing Agreement and the Memorandum of Understanding No. M-13828 between DPT and the San Francisco Port Commission (the "Port"), a copy of which is attached as Appendix C of the Towing Agreement ("MOU"), and which is incorporated by reference as though fully set forth herein. Consent to this License by the Executive Director of the Port of San Francisco is attached hereto as Attachment 3.

RECITALS

This agreement is made with reference to the following facts:

A. City and Licensee are parties to the Towing Agreement for the towing and storage of abandoned and illegally parked vehicles.

B. As part of the Towing Agreement, City wishes to authorize Licensee to use certain portions of Seawall Lot 349, located at Pier 70 ("the Property"), all as shown on Attachment 1 (the "Premises"), to provide long term storage for vehicles towed pursuant to the Towing Agreement and related office uses.

Therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. BASIC LICENSE INFORMATION

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

Licensor:	CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION
Licensee:	TEGSCO, LLC, d.b.a. SAN FRANCISCO AUTORETURN, A CALIFORNIA LIMITED LIABILITY COMPANY
Buildings (Section 2.1):	Building 12, Building 15, Building 16, Building 31 and Building 32, all located at Seawall Lot 349, Pier 70, San Francisco, California (collectively, the "Buildings").
Premises (Section 2.1):	Certain portions of Seawall Lot 349, located at Pier 70, all as shown on Attachment 1
Term (Section 4):	Commencement Date: the Effective Date as defined in Section 1 of the Towing Agreement. Expiration Date: Five (5) years from the Effective Date as defined in the Towing Agreement, but no later than March 1, 2012, including any extension periods as defined in Section 4.2 herein.
Base Fee (Section 5):	Monthly License Fee: $118,830.00 for Parcel A and $2,850 for Parcel B, both as shown on Attachment 1.
Permitted Use (Section 6.1):	Parking space for the storage and transfer of vehicles, public lien sale auctions and office space for the administration of Licensee's operations under the Towing Agreement.
Utilities and Services (Section 10):	Provided and paid by Licensee.
Security (Section 6.5):	Licensee shall be solely responsible for the security of the Premises.
Security Deposit (Section 24.10):	Security Deposit shall be maintained in accordance with the terms of Section 12 [Financial Assurances] of the Towing Agreement.
Notices to the Parties: (Section 25.1)	Any notice, demand, consent or approval required under Sections 4 (Term) , 5 (Fee), 6.1 (Permitted Use), 6.7 (Fines), 7.5 (Removal of Alterations), 11.2.1 (Regulatory Approvals-Responsible Party), 14 (Damage and Destruction), 16 (Assignment and Subletting), 17 (Default; Remedies), 18

(Waiver of Claims; Indemnification), 19 (Insurance), 23 (Surrender of Premises), or 24 (Hazardous Materials) of this License must be sent by first class certified U.S. mail with return receipt requested, or by overnight courier, return receipt requested, with postage pre-paid. All other written communications, unless otherwise indicated elsewhere in this License, may be by first class U.S. mail, by email, or by fax. All communications related to this License shall be addressed as follows:

To Licensee:

San Francisco AutoReturn
Attention: John Wicker
450 7th Street
San Francisco, CA 94103
Phone No.: (415) 626-3380
Fax No.: (415) 626-3381
Email: jwicker@autoreturn.com

To City:

City and County of San Francisco
Department of Parking and Traffic
Attention: Steve Bell
25 Van Ness Avenue, Suite 230
San Francisco, CA 94102
telephone: 415-554-9825
facsimile: 415-252-3272
Email: steve.bell@sfgov.org

and to:

Director of Real Estate
Port of San Francisco
Pier 1
San Francisco, CA 94111
telephone: (415) 274-0510
facsimile: (415) 274-0578

2. PREMISES

2.1 License Premises.

2.1.1 City confers to Licensee a revocable, personal, non-exclusive and non-possessory privilege to enter upon and use those certain premises identified in the Basic License Information and shown on Attachment 1, attached hereto and incorporated by reference as though fully set forth herein (collectively, the "Premises"), for the limited purpose and subject to the terms, conditions and restrictions set forth below. This License gives Licensee a license only, revocable at any time at the will of City, and notwithstanding anything to the contrary herein, this License does not constitute a grant by City of any ownership, leasehold, easement or other property interest or estate whatsoever in the Premises, or any portion thereof. The privilege given to Licensee under this License is effective only insofar as the rights of City in the Premises are concerned, and Licensee shall obtain any further permission necessary because of any other existing rights affecting the Premises. The area of the Premises specified in the Basic License Information shall be conclusive for all purposes hereof. The Premises, land upon which the Premises is located and all other improvements on and appurtenances to such land are referred to collectively as the "Property."

2.1.2 City may, at City's sole and absolute discretion, relocate Licensee from any portion or all of the Premises to another location on City property that City in its sole and absolute discretion deems suitable for the uses permitted hereunder; provided that such relocation shall not materially interfere with Licensee's ability to meet its obligations under the Towing Agreement. In the event of any such relocation, the new location shall become part or all of the Premises hereunder.

2.1.3 City may, at City's sole and absolute discretion, modify the original configuration of the Pier 70 Premises; provided that such modification shall not materially interfere with Licensee's ability to meet its obligations under the Towing Agreement, unless such modification is required under the MOU.

2.1.4 Licensee acknowledges that the interest of DPT in the Premises is limited to those rights conveyed to DPT by the MOU. Licensee hereby agrees to assume all responsibility for and be bound by all covenants, terms and conditions of DPT and Licensee defined in the MOU, except for the obligations of DPT set forth in Section 2 of the MOU. In the event there are any inconsistencies between the provisions of this License and the MOU, the provisions of the MOU shall govern the parties' rights hereunder.

2.1.5 Previous investigations have revealed the possible presence of contamination in (1) the south east corner of the Property which is believed to have originated from historical sources not associated with towing operations; and (2) the vicinity of the former crushing area used by Pick Your Part. The City and the Pacific Gas and Electric Company and the City and Pick Your Part, respectively, are cooperating to investigate environmental conditions in these areas. In order to continue such investigations, comply with orders and directives from regulatory agencies and otherwise comply with law, the City reserves for itself and its designees, the right to enter the Property and any portion thereof at all reasonable times upon reasonable advance oral or written notice to Licensee (except in the event of an emergency) for the following purposes: (a) to conduct inspections or inventories; (b) to install, inspect, sample, monitor, close and abandon permanent or temporary groundwater wells; (c) to obtain environmental samples from all media, from both on and offshore areas; (d) to conduct utility clearances; and (e) to conduct cleanup activities. City shall use its reasonable good faith efforts to conduct any activities on the Premises allowed under this Section in a manner that, to the extent practicable, will minimize any disruption to Licensee's use hereunder. Licensee will cooperate with City by complying with reasonable requests to temporarily relocate cars and other operations to accommodate the City. City shall not be liable in any manner, and Licensee hereby waives any claims, for any inconvenience, disturbance, loss of business, nuisance or other damage arising out of City's or its designees' entry onto the Property, except damage resulting directly and exclusively from the gross negligence or willful misconduct of City or its designees and not contributed to by the acts, omissions or negligence of Licensee or Licensee's Invitees. Licensee shall not be entitled to any abatement in the Base Fee if City exercises any rights reserved in this Section unless property is removed from usage for more than thirty (30) days or in excess of 250 square feet.

3. INSPECTION OF PROPERTY; AS IS CONDITION

3.1 Inspection of Property. Licensee represents and warrants that Licensee has conducted a thorough and diligent inspection and investigation of the Property and the suitability of the Property for Licensee's intended use, either independently or through its officers, directors, employees, agents, affiliates, subsidiaries licensees and contractors, and their respective heirs, legal representatives, successors and assigns, and each of them. Licensee is fully aware of the needs of its operations and has determined, based solely on its own investigation, that the Property is suitable for its operations and intended uses.

3.2 As Is Condition. WITHOUT WAIVING ANY OF LICENSEE'S RIGHTS ESTABLISHED IN SECTION 24.3 AND 24.8 BELOW, LICENSEE ACKNOWLEDGES AND

AGREES THAT THE PREMISES ARE BEING LICENSED AND ACCEPTED IN THEIR "AS IS" AND "WITH ALL FAULTS" CONDITION, WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, AND SUBJECT TO ALL APPLICABLE LAWS, RULES AND ORDINANCES GOVERNING THEIR USE, OCCUPANCY AND POSSESSION. LICENSEE ACKNOWLEDGES AND AGREES THAT NEITHER CITY NOR ANY OF ITS AGENTS HAVE MADE, AND CITY HEREBY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE RENTABLE AREA OF THE PREMISES, THE PHYSICAL, SEISMOLOGICAL OR ENVIRONMENTAL CONDITION OF THE PREMISES OR THE PROPERTY, THE PRESENT OR FUTURE SUITABILITY OF THE PREMISES FOR LICENSEE'S BUSINESS, OR ANY OTHER MATTER WHATSOEVER RELATING TO THE PREMISES, INCLUDING, WITHOUT LIMITATION, AND IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

4. LICENSE TERM

4.1 Original Term. The privilege given to Licensee pursuant to this License is temporary only and shall commence upon the Effective Date of the Towing Agreement, as defined in Section 1 of the Towing Agreement, and described in the Basic License Information as the Commencement Date (the "Commencement Date"). The initial term of this License shall run from the Commencement Date through the date that is five (5) years from the Commencement Date, or the date of earlier termination of this License pursuant to the terms of this License or the Towing Agreement, whichever date is earlier (the "Expiration Date"). Without limiting any of its rights hereunder, City may at its sole option freely revoke this License at any time, without cause and without any obligation to pay any consideration to Licensee. City shall deliver the Premises to Licensee on the Commencement Date in their then-existing as-is condition as further provided above, with no alterations being made by City. Promptly following execution of this License, Licensee shall deliver to City a notice substantially in the form of Attachment 2, but Licensee's failure to do so shall not affect the commencement of the Term.

4.2 Extension Period. The Term of this License may be extended in accordance with MOU Section 4. The definition "Term" shall refer to the total time period during which this License exists as a legally binding agreement between the parties, including all month-to-month extensions.

5. FEE

5.1 Base Fee. Throughout the Term commencing on the first day of the Term, Licensee shall pay to City the annual Base Fee specified in the Basic License Information (the "Base Fee"). Licensee shall pay the Base Fee to City monthly, in advance, on or before the first of the month for which the fee is due, without prior demand and without any deduction, setoff or counterclaim whatsoever, except as such deduction or setoff is specifically provided for in Section 5.7 [Abatement of Base Fee and Base Fee Credits]. The Base Fee shall be paid by company check to the City and County of San Francisco in care of the Director of DPT at the primary address for City specified in the Towing Agreement, or such other place as City may designate in writing. If the first day of the Term occurs on a day other than the first day of a calendar month, then the Base Fee for such fractional month shall be prorated based on a thirty (30) day month.

5.2 Adjustments in Base Fee. The Base Fee shall be adjusted as provided in Section 5 of the MOU.

5.3 Intent. Licensee acknowledges and agrees that the intent and purpose of this Section 5 is to provide that Licensee shall be responsible for all costs that City may incur in licensing the Property, and any increases thereto.

5.4 Late Charges. If Licensee fails to pay any fee or any portion of fee within five (5) days following the due date, such unpaid amount shall be subject to a late payment charge equal to six percent (6%) of the unpaid amount in each instance. The late payment charge has been agreed upon by City and Licensee, after negotiation, as a reasonable estimate of the additional administrative costs and detriment that City will incur as a result of any such failure by Licensee, the actual costs thereof being extremely difficult if not impossible to determine. The late payment charge constitutes liquidated damages to compensate City for its damages resulting from such failure to pay and shall be paid to City together with such unpaid amount.

5.5 Default Interest. Any fee, if not paid within five (5) days following the due date, shall bear interest from the due date until paid at the rate of ten percent (10%) per year or, if a higher rate is legally permissible, at the highest rate an individual is permitted to charge under law. However, interest shall not be payable on late charges incurred by Licensee nor on any amounts on which late charges are paid by Licensee to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest shall not excuse or cure any default by Licensee.

5.6 Deduction From Amounts Due. In the event Licensee fails to pay any fee due hereunder for more than ten (10) days following the due date, City may deduct and withhold the amount of such fee, together with the amount of applicable late charges and default interest as provided herein, from any monies in City's possession due Licensee pursuant to the Towing Agreement.

5.7 Abatement of Base Fee and Base Fee Credits. During the Term, and subject to City's prior written approval which shall not be unreasonably withheld, City shall grant abatement of the Base Fee or allow Licensee a credit that may offset from the Base Fee under the circumstances listed in this Section 5.7. All Base Fee abatements and credits available to Licensee shall be applied against the Base Fee payment obligation during the Term at a rate not greater than one half (½) of the applicable month Base Rent payment and shall be applied if and only if Licensee is in good standing and is not in default of any of the terms of this License. In the event that the total of Base Fee abatements or credits available to Licensee pursuant to this Section 5.7 exceeds an amount equal to one half (½) of the Base Fee payment for any one calendar month, the remaining available Base Fee credit shall be carried forward to successive calendar months at a rate not to exceed one half (½) of the applicable Base Fee payment, until all available Base Fee credits have been fully applied. In no event, however, shall Licensee be entitled to the application of any Base Fee credits or the value thereof beyond the expiration or earlier termination of this License.

5.7.1 If the Premises ceases to be used for towing operations at any time due to damage sustained during the Term by fire, earthquake, or other casualty rendering the Premises unsuitable for occupancy as determined by the Director of Building Inspection pursuant to the San Francisco Building Code, or are otherwise deemed legally not useable for any reason, Licensee shall be entitled to an abatement in Base Fee to the same extent that DPT receives a Rent abatement pursuant to Section 5(d)(1) of the MOU.

5.7.2 Licensee shall be entitled to an abatement in the Base Fee if the City's exercise of any rights reserved in the MOU result in Licensee's loss of use of the Premises for more than thirty (30) days or in an area greater than 250 square feet, or if Licensee surrenders the possession of Parcel B to the Port for the sole reason that it is unable to obtain a BCDC permit for use of Parcel B consistent with the MOU; provided, however, that if Licensee fails to satisfy the condition of obtaining BCDC approval for use of Parcel B, and surrenders possession of Parcel B to the Port, Licensee shall install and maintain Port approved fencing along the adjusted perimeter of the Premises. The opening of 22nd Street by the Port for non-exclusive, general circulation through the Pier 70 area may occur at the City's sole option without Base Fee abatement.

5.7.3 In the event City requires the modification of the original configuration of the Premises, any reasonable and actual costs incurred by Licensee to relocate the Premises, fences, gates, lights, driveways and other improvements in order to comply with such requirement may be offset from the Base Fee, except for such costs incurred with respect to the opening of 22nd Street by the Port for non-exclusive, general circulation through the Pier 70 area; however in such event Port shall be responsible for the cost of any fencing that Port requires along the extended 22nd Street corridor. The parties agree that any such costs incurred to modify the original configuration of the Premises due to a surrender of possession of Parcel B to the Port due to Licensee's inability to obtain a BCDC permit for use of Parcel B consistent with the MOU may not be offset from the Base Fee.

5.7.4 At any time during the Term of this Agreement, City may elect to fund certain property maintenance, construction, improvements, systems development or staffing related to City towing and impoundment operations that are not the responsibility of Contractor under this Agreement ("Projects"). City may require Contractor, upon ninety (90) day's written notice, to implement any such Project. In consideration for implementation of the Project by Contractor, City shall issue an appropriate Base Fee credit in the amount of the reasonable actual costs of the Project. No Project may be implemented without the prior written approval of the City, and all Project implementation must be in accordance with the scope, specifications, maximum costs and all other requirements provided in writing by City. Contractor shall be responsible for obtaining all required permits, governmental approvals and insurance for any Project, the reasonable actual costs of which shall be included in the Base Fee credit. After the completion of the Project, Contractor must deliver to City an itemized statement of the actual costs of the Project, accompanied by documentation substantiating all said expenditures. Such documentation of expenditures shall include: (i) copies of executed contracts; (ii) copies of invoices for labor, services and/or materials, copies of bills of lading, and/or copies of other bills or receipts for goods, materials and/or services; (iii) copies of canceled checks, and (iv) such other proofs of expenditure as may by reasonably requested by City. Such appropriate proofs of expenditure may include copies of canceled checks; copies of contracts or invoices for labor, services and/or materials marked "Paid", or otherwise evidenced as having been paid bills of lading marked "Paid"; other bills, contracts, receipts for goods materials and/or services marked "Paid" and such other proofs of expenditure as may be reasonably approved by City. All such proofs of expenditure must be directly attributable to the approved Project and may include materials purchased by City for installation by City but not the City's cost if it undertakes such installation. Any construction of the fencing required in the event that the Port elects to implement the extension of 22nd Street shall be governed by this Section and Section 5(d)(4) of the MOU.

6. USE OF PREMISES

6.1 Permitted Use. Licensee shall use and continuously occupy the Premises during the Term solely for temporary storage and transfer of vehicles, public lien sale auctions and related office use as necessary to meet its obligations under the Towing Agreement and for such other uses, if any, as may be specified in the Basic License Information. Licensee shall not use the Premises for any other purpose without the prior written approval of City in accordance with Section 7 of the MOU, including, without limitation, the following: (a) crushing or dismantling; (b) maintenance, fueling or washing of vehicles; (c) selling vehicle parts from the Premises, (d) parking or storage of vehicles not covered under the Towing Agreement; or (e) parking for Licensee's employees, without the prior written approval of City and subject to availability of space necessary to fully perform Licensee's obligations under the Towing Agreement. City hereby approves the use of thirty (30) parking spaces for the use of Licensee's employees, subcontractors and vendors on the Premises. All available space for vehicle parking shall be used for the purposes set forth in the Towing Agreement. The maintenance, fueling or washing of vehicles may only be permitted after the Port Executive Director and DPT approve the Operations Plan described in MOU Section 14(k) and Towing Agreement Appendix A Section 14, in writing, and the selling of vehicle parts from the Premises may only be permitted after DPT approves the Operations Plan, in writing. Once approved as provided herein, such approval of Operations Plan elements listed in Appendix B as "Pier 70 Premises Management Elements" may not be revoked except as part of a regular

modification of the Operations Plan under the Towing Agreement. Licensee, its employees, subcontractors and vendors shall use 20th Street and or 22nd Street for access and egress to and from the Premises. No advertising or signage may be placed in or about the Premises without the prior written permission of the Port and subject to any written Port sign guidelines.

6.2 Use of Equipment and Machinery. Licensee shall have the right to place on the Premises all necessary equipment and machinery in connection with the permitted use of the Premises. It is understood and agreed that City is not responsible for loss of or damage to any Licensee-owned equipment herein involved, unless caused by the sole negligence of City's officers, agents, and employees.

6.3 Limitation to Described Purpose. Licensee may occupy and use the Property solely for the purpose of fulfilling its obligations under the Towing Agreement to store and auction any vehicles towed pursuant to the terms of the Towing Agreement, and for incidental purposes related thereto. The buildings identified as Buildings 12, 15, 16, 31 and 32 on Attachment 1 may only be used to store vehicles and may not be used as office space. No occupancy of the loft area of Building 12 will be allowed unless San Francisco Building and Fire Code requirements are met. Adequate drop-off space must be provided so that tow and transport trucks can load and unload on the Property. No loading, unloading, queuing, parking or storage of vehicles will be permitted on any adjacent Port property, public streets or rights-of-way. All storage activities authorized by this License shall be restricted to the designated enclosed and visually screened area. Any use of the Premises by Licensee shall be subject to the requirements of the Operations Plan adopted pursuant to MOU Section 14(k) and Towing Agreement Appendix A, Section 14.

6.4 No Unlawful Uses, Nuisances or Waste. Without limiting the foregoing, Licensee shall not use, occupy or permit the use or occupancy of any of the Premises in any unlawful manner or for any illegal purpose, or permit any offensive, noisy or hazardous use or any waste on or about the Premises. Licensee shall take all precautions to eliminate any nuisances or hazards relating to its activities on or about the Premises. Licensee shall not conduct any business, place any sales display, or advertise in any manner in areas outside the Premises or on or about the Property without the prior written permission of City.

6.5 Security. Licensee shall at all times provide security at a level acceptable to the City to protect the Property and all vehicles stored therein, and the persons and property of owners of towed vehicles, against damage, injury, theft or other loss.

6.6 Mineral Reservation. Licensee acknowledges that the State of California, pursuant to Section 2 of Chapter 1333 of the Statues of 1968, as amended has reserved all subsurface mineral deposits, including oil and gas deposits, on or underlying the Property. In accordance with the provisions of said statute, Port and Licensee shall and hereby do grant to the State of California the right to explore, drill for and extract said subsurface minerals, including oil and gas deposits, from an area located by the California Grid System, Zone 3, beginning at a point where X equal 1,456,113 and Y equals 463,597, extending 1,000 feet south, thence 1,000 feet east, thence 1,000 feet north, and thence 1,000 feet west, ending at said point of beginning.

6.7 Fines. Without limiting City's other rights and remedies set forth in this License, if Licensee violates any of the following provisions governing its use of the Premises contained in this License or the Towing Agreement, DPT may impose a fine of $300 per day during which Licensee is in violation of any of the specified provisions: License sections 2, 6, 7, 8, 11, 19, 22, 24; Towing Agreement section 12.2. DPT may also impose this fine for Licensee's failure to submit any report as and when required by any provision of this License.

The fines described in this Section 6.7 shall run from the date of City's notice to Licensee of the violation and shall continue until the violation is cured. All such accrued fines under this Section shall be payable to City monthly in arrears at the same time, place and manner as the Base Fee is payable unless otherwise specified herein. City shall have the same remedies for a default in the payment of any such amounts as for a default in the payment of Base Fee.

If DPT notifies Licensee of the imposition of a fine under this Section based upon a notice of violation that was initiated by the Port and communicated to DPT, Licensee may appeal such fine to the Port Director within fourteen (14) days of the notice with evidence supporting Licensee's claim for relief from the fine imposed. The Port Director will respond within fourteen (14) days. Any failure of the Port Director to respond within the fourteen (14) day period shall be deemed a rejection of Licensee's claim for relief from the fines imposed. If DPT initiates notice of a fine under this Section, Licensee may appeal such fine to the Director of DPT within fourteen (14) days of the notice with evidence supporting Licensee's claim for relief from the fine imposed. The Director of DPT will respond within fourteen (14) days. Any failure of the Director of DPT to respond within the fourteen (14) day period shall be deemed a rejection of Licensee's claim for relief from the fines imposed. The provisions of Section 46 of the Towing Agreement shall not apply to fines imposed under this Section.

City's right to impose the foregoing fines shall be in addition to and not in lieu of any and all other rights under this License or at law or in equity; provided, however, that City agrees that once it has declared an "Event of Default" pursuant to Section 17 of this License, it will no longer impose any new fines with respect to such default. City shall have no obligation to Licensee to impose fines on or otherwise take action against any other person.

7. ALTERATIONS

7.1 Licensee's Alterations. Licensee shall not make, nor cause or suffer to be made, any alterations (including demolition or removal), installations, additions or improvements to the Property, including but not limited to the installation of any appurtenances or trade fixtures affixed to the Property, constructed by or on behalf of Licensee pursuant to the Towing Agreement, or any trailers, signs, roads, trails, driveways, parking areas, curbs, walks fences walls, stairs, poles, plantings or landscaping, (collectively, "Alterations") without first obtaining DPT's written approval and then obtaining a permit therefor from the San Francisco Port Commission's Engineering Department, with respect to the Property, and any other permits or approvals as the Chief Harbor Engineer of the San Francisco Port Commission deems necessary, with respect to the Property; and any required approvals of regulatory agencies having jurisdiction over the Property. All Alterations shall be done at Licensee's expense in accordance with plans and specifications approved by City, only by duly licensed and bonded contractors or mechanics approved by City, and subject to any conditions that City may reasonably impose. City may require Licensee, at Licensee's expense, to obtain the prior written approval of City's Arts Commission with respect to any Alterations, to the extent the Arts Commission has jurisdiction over the design of such proposed alterations under City's Charter Section 5.103. Licensee shall pay to Port any applicable permit fees for such Alterations in accordance with standard permit fees generally charged to Port tenants, as adopted by the Port Commission. All Alterations shall be subject to the following conditions:

7.1.1 All Alterations shall be constructed in a good and workmanlike manner and in compliance with all applicable building, zoning and other laws, and in compliance with the terms of and the conditions imposed in any regulatory approval;

7.1.2 All Alterations shall be performed with reasonable dispatch, delays beyond the reasonable control of Licensee excepted; and

7.1.3 At the completion of the construction of the Alterations, Licensee shall furnish one (1) set of "as-built" drawings of the same made on or to the Premises. Unless otherwise stated as a

condition of the regulatory approval, this requirement may be fulfilled by the submittal after completion of the Alterations of a hand-corrected copy of the approved permit drawing(s).

7.2 Title to Improvements. Except for Licensee's Personal Property (as described in Section 7.3), or as may be specifically provided to the contrary in approved plans, all Alterations, equipment, or other property attached or affixed to or installed in the Premises at the Commencement Date or, by Licensee with the advance approval of City during the Term, shall, at City's sole discretion, remain City's property without compensation to Licensee or be removed at the termination of this License. Licensee may not remove any such property at any time during or after the Term unless City so requests pursuant to Section 23 [Surrender of Premises], below.

7.3 Licensee's Personal Property. All furniture, trade fixtures, office equipment and articles of movable personal property installed in the Premises by or for the account of Licensee, without expense to City, and that can be removed without structural or other damage to the Premises (collectively, "Licensee's Personal Property") shall be and remain Licensee's property. Licensee may remove its Personal Property at any time during the Term, subject to the provisions of Section 23 [Surrender of Premises], below. Licensee shall pay any taxes or other impositions levied or assessed upon Licensee's Personal Property, at least ten (10) days prior to delinquency, and shall deliver satisfactory evidence of such payment to City upon request.

7.4 City's Alterations of the Buildings and Building Systems. City reserves the right at any time to make alterations, additions, repairs, deletions or improvements to the common areas or any other part of the Buildings or the Building Systems, provided that any such alterations or additions shall not materially adversely affect the functional utilization of the Premises for the Permitted Use set forth in Section 6.1 [Permitted Use].

7.5 Removal of Alterations. At City's election made in accordance with this Section 7.5, Licensee shall be obligated at its own expense to remove and relocate or demolish and remove (as Licensee may choose) any or all Alterations which Licensee has made to the Premises, including without limitation all telephone wiring and equipment installed by Licensee. Licensee shall repair, at its own expense, in good workmanlike fashion any damage occasioned thereby.

7.5.1 Notice of Removal. Prior to the termination of the Towing Agreement, City shall give written notice to Licensee specifying the Alterations or portions thereof which Licensee shall be required to remove and relocate or demolish and remove from the Premises, in accordance with this Section 7.5 (herein "Notice of Removal"). If termination is the result of loss or destruction of the Premises or any improvements thereon, City shall deliver said Notice of Removal to Licensee within a reasonable time after the loss or destruction. If Licensee fails to complete such demolition or removal on or before the termination of the Towing Agreement, City may perform such removal or demolition at Licensee's expense, and Licensee shall reimburse Port upon demand therefor.

7.5.2 Removal of Non-Permitted Improvements. If Licensee constructs any Alterations to the Premises without City's prior written consent or without complying with this Section 7, then, in addition to any other remedy available to City, City may require Licensee to remove, at Licensee's expense, any or all such Alterations and to repair, at Licensee's expense and in good workmanlike fashion, any damage occasioned thereby. Licensee shall pay to City all special inspection fees as set forth in the San Francisco Building Code for inspection of work performed without required permits.

7.5.3 Alterations Not Subject to Removal. In conjunction with a request to make an Alteration under section 7.1, Licensee may submit a request for a City determination of the whether a proposed Alteration would or would not be required to be removed upon expiration or termination of this License. Such request for determination shall be submitted to DPT and to the Executive Director of the

Port. The Executive Director of the Port shall have sixty (60) days to review the notice and to respond to Licensee with a determination of whether the proposed Alteration would or would not be required to be removed upon termination of this License. If the Executive Director of the Port fails to respond within sixty (60) days, then the proposed Alterations shall be removed or left on the Premises in accordance with all other provisions of this License governing Alterations. The failure of the Executive Director of the Port to respond to such request shall mean that such Alteration is subject to all other provisions of this Section 7.5. This Section 7.5.3 shall not apply to Alterations that are required by any regulatory authority to conform the Premises or any building thereon to a requirement of statute, ordinance or regulation.

8. REPAIRS AND MAINTENANCE

8.1 Licensee's Repairs. Licensee shall maintain, at its sole expense, the Premises in good repair and working order and in a clean, secure, safe and sanitary condition. Licensee shall promptly make all repairs and replacements: (a) at its sole expense, (b) by licensed contractors or qualified mechanics approved by City, (c) so that the same shall be at least equal in quality, value and utility to the original work or installation, (d) in a manner and using equipment and materials that will not interfere with or impair the use or occupation of the Premises, and (e) in accordance with all applicable laws, rules and regulations. Licensee hereby waives all rights to make repairs at City's expense under Sections 1941 and 1942 of the California Civil Code or under any similar law, statute or ordinance now or hereafter in effect.

8.1.1 Removal of Refuse. All refuse, including tires, non-salvageable vehicle parts and litter, shall be removed from the Property on a regular basis by an authorized refuse collection company. All trash areas shall be effectively screened from view and maintained in orderly manner. All trash and refuse containers shall be maintained in approved enclosures.

8.1.2 Storm Water Pollution Prevention. Licensee agrees to effect mechanisms to control stormwater pollution at the Premises to the reasonable satisfaction of Port's Manager of Environmental Health and Safety, which mechanism may include (by way of example and not limitation) good housekeeping and materials management practices, preventing run-on and run-off from materials storage areas, maintenance areas, or areas where contaminants may be present, installation and maintenance of catchments or absorbent pads in stormwater drains located at or servicing the Premises, or other pollution prevention practices appropriate to the facility and operations. Documentation of Licensee's pollution prevention practices shall be provided as part of a facility operations plan or separate pollution prevention plan. Licensee shall comply with all stormwater pollution control regulations, and shall prepare and submit all stormwater permit applications and stormwater pollution control plans within forty-five (45) days of the Effective Date.

8.1.3 Repair of Any Damage. In the event that damage to any of the improvements to the Property which are Licensee's obligation to maintain by reason of ordinary wear and tear or deterioration results in such improvements not meeting the standard of maintenance required by City for such uses as Licensee is making of the Property, then Licensee shall have the independent responsibility for, and shall promptly undertake such maintenance or repair and complete the same with due diligence. If Licensee fails to do so after reasonable notice in writing from City, then in addition to any other remedy available to City, City may make such maintenance or repairs and Licensee shall reimburse City therefor. Work performed by the City pursuant to this Section 8.1.3 shall not be subject to any abatement of the Base Fee. The City, in its sole discretion, may obtain reimbursement for damages from Licensee's Letter of Credit required by Section 12.2 of the Towing Agreement ("Security Deposit"). Should the City obtain reimbursement for damages from the Security Deposit, Licensee shall promptly restore the Security Deposit to its original amount.

9. LIENS AND ENCUMBRANCES

9.1 Liens. Licensee shall keep the Premises and the rest of the Property free from any liens arising out of any work performed, material furnished or obligations incurred by or for Licensee. In the event Licensee does not, within twenty (20) days following the imposition of any such lien, cause the lien to be released of record by payment or posting of a proper bond, City shall have, in addition to all other remedies, the right, but not the obligation, to cause the lien to be released by such means as it shall deem proper, including, but not limited to, payment of the claim giving rise to such lien. All such sums paid by City and all expenses reasonably incurred by it in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to City by Licensee within thirty (30) days of demand by City. City shall have the right to post on the Premises any notices that City may deem proper for the protection of City, the Premises from mechanics' and materialmen's liens. Licensee shall give to City at least fifteen (15) days' prior written notice of commencement of any repair or construction on the Premises.

9.2 Encumbrances. Licensee shall not create, permit or suffer any liens or encumbrances affecting any portion of the Premises, the Property or City's interest therein or under this License.

10. UTILITIES AND SERVICES

10.1 Utilities and Services. Gas, electrical, sewer, water, janitor service, telecommunications services and any other utilities or services shall be acquired and paid by Licensee, including the initial hook up to said utilities and services.

10.2 Utility Maintenance. Licensee shall be obligated, at its sole cost and expense, to repair and maintain in good operating condition all utilities located within the Premises and all utilities installed by Licensee (whether within or outside the Premises). If Licensee requests City to perform such maintenance or repair, whether emergency or routine, City may charge Licensee for the cost of the work performed at the then prevailing standard rates, and Licensee agrees to pay said charges to City promptly upon billing. Licensee shall pay for repair of utilities located outside the Premises (regardless of who installed the same) which are damaged by or adversely affected by Licensee's use of such utility and shall be responsible for all damages, liabilities and claims arising therefrom. The parties agree that any and all utility improvements shall become part of the realty and are not trade fixtures.

11. COMPLIANCE WITH LAWS AND RISK MANAGEMENT REQUIREMENTS

11.1 Compliance with Laws.

11.1.1 Licensee shall promptly comply, at its sole expense, with all present or future laws, judicial decisions, orders, regulations and requirements of all governmental authorities relating to the Premises or the use or occupancy thereof, whether in effect at the time of the execution of this License or adopted at any time thereafter and whether or not within the present contemplation of the parties.

11.1.2 Licensee further understands and agrees that it is Licensee's obligation, at its sole cost, to cause the Premises and Licensee's uses thereof to be conducted in compliance with the Americans with Disabilities Act, 42 U.S.C.A.§§ 12101 et seq. Licensee shall not be required to make any structural alterations in order to comply with such laws unless such alterations shall be occasioned, in whole or in part, directly or indirectly, by Licensee's Alterations, Licensee's manner of using the Premises, or any act or omission of Licensee, its Agents or Invitees. Any Alteration made by or on behalf of Licensee pursuant to the provisions of this Section shall comply with the provisions of Section 8.1 [Licensee's Repairs], above.

11.1.3 Licensee shall comply with all Fire Code requirements in its use and occupancy of the Property.

11.1.4 The parties acknowledge and agree that Licensee's obligation to comply with all laws as provided herein is a material part of the bargained for consideration under this License. Licensee's obligation under this Section shall include, without limitation, the responsibility of Licensee to comply with applicable laws by making substantial or structural repairs and modifications to the Premises (including any of Licensee's Alterations), regardless of, among other factors, the relationship of the cost of curative action to the fee under this License, the relative benefit of the repairs to Licensee or City and the degree to which the curative action may interfere with Licensee's use or enjoyment of the Premises. This section shall not apply to any non-compliance with laws relating to changes in use or configuration of the Premises requested by City.

11.2 Regulatory Approvals.

11.2.1 Responsible Party. Licensee understands and agrees that Licensee's use of the Premises and construction of any Alterations permitted hereunder may require authorizations, approvals or permits from governmental regulatory agencies with jurisdiction over the Premises. Licensee shall be solely responsible for obtaining any and all such regulatory approvals. Licensee shall not seek any regulatory approval without first obtaining the written consent of City hereunder. Licensee shall bear all costs associated with applying for and obtaining any necessary or appropriate regulatory approval and shall be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval, other than any conditions that may arise out of Hazardous Materials in, on, or under any part of the Buildings or Premises that were present on the March 22, 2004, to the extent that such regulatory conditions relate to property conditions existing prior to March 22, 2004, and except to the extent that the regulatory conditions relate to Licensee's exacerbation of any pre-existing condition; provided, however, that City shall not be required to engage in any work or incur any costs necessary to secure any regulatory approval or satisfy any condition imposed by a regulatory agency. Any fines or penalties levied as a result of Licensee's failure to comply with the terms and conditions of any regulatory approval shall be immediately paid and discharged by Licensee, and City shall have no liability, monetary or otherwise, for any such fines or penalties. As defined in Section 18.2 herein, Licensee shall Indemnify City and the other Indemnified Parties hereunder against all Losses arising in connection with Licensee's failure to obtain or comply with the terms and conditions of any regulatory approval.

11.2.2 City Acting as Owner of Real Property. Licensee further understands and agrees that City is entering into this License in its capacity as a property owner or lessee with a proprietary interest in the Premises and not as a regulatory agency with police powers. Nothing in this License shall limit in any way Licensee's obligation to obtain any required approvals from City departments, boards or commissions having jurisdiction over the Premises. By entering into this License, City is in no way modifying or limiting Licensee's obligation to cause the Premises to be used and occupied in accordance with all applicable laws, as provided further above.

11.3 Compliance with City's Risk Management Requirements. Licensee shall not do anything, or permit anything to be done, in or about the Premises which would be prohibited by or increase the rates under a standard form fire insurance policy or subject City to potential premises liability. Licensee shall faithfully observe, at its expense, any and all requirements of City's Risk Manager with respect to Licensee's use and occupancy of the Premises, so long as such requirements do not unreasonably interfere with Licensee's use of the Premises.

12. SUBORDINATION

This License is and shall be subordinate to any reciprocal easement agreement, ground lease, facilities lease or other underlying leases or licenses and the lien of any mortgage or deed of trust, that may now exist or hereafter be executed affecting the Property, or any part thereof, or City's interest therein. Notwithstanding the foregoing, City or the holder shall have the right to subordinate any such interests to this License. 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, Licensee shall attorn to the successor-in-interest to City, at the option of such successor-in-interest. The provisions of this Section shall be self-operative and no further instrument shall be required. Licensee agrees, however, to execute and deliver, upon demand by City and in the form requested by City, any additional documents evidencing the priority or subordination of this License.

13. INABILITY TO PERFORM

If City is unable to perform or is delayed in performing any of City's obligations under this License, by reason of acts of God, accidents, breakage, repairs, strikes, lockouts, other labor disputes, protests, riots, demonstrations, inability to obtain utilities or materials or by any other reason beyond City's reasonable control, no such inability or delay shall constitute an actual or constructive eviction, in whole or in part, or entitle Licensee to any abatement or diminution of fee or relieve Licensee from any of its obligations under this License, or impose any liability upon City or its Agents by reason of inconvenience, annoyance, interruption, injury or loss to or interference with Licensee's business or use and occupancy or quiet enjoyment of the Premises or any loss or damage occasioned thereby. Licensee hereby waives and releases any right to terminate this License under Section 1932, subdivision 1 of the California Civil Code or any similar law, statute or ordinance now or hereafter in effect.

14. DAMAGE AND DESTRUCTION

14.1 Damage and Destruction. If the Premises or the Buildings are damaged by fire or other casualty City shall have no obligation to repair the Premises or Buildings. City shall use its best efforts to notify Licensee within ninety (90) days after the date of such damage whether or not such damage can be repaired within two hundred ten (210) days after the date of such damage (the "Repair Period"). If such repairs cannot be made within the Repair Period, City shall have the option, to notify Licensee of: (a) City's intention to repair such damage and diligently prosecute such repairs to completion within a reasonable period after the Repair Period, subject to appropriation of funds by City's Board of Supervisors, in which event this License shall continue in full force and effect, except that Licensee shall be entitled to a proportionate reduction of the Base Fee during the period of such repairs if they continue for more than thirty (30) days or result in the exclusion of Licensee from a portion of the Premises in excess of 250 square feet from the date of termination of the Repair Period, or (b) City's election to terminate this License as of a date specified in such notice. In case of termination, the Base Fee shall be reduced as provided above, and Licensee shall pay such reduced Base Fee up to the date of termination.

If at any time during the last twelve (12) months of the Term of this License, the Premises or the Buildings is damaged or destroyed, then Licensee may terminate this License by giving written notice to City of its election to do so within thirty (30) days after the date of the occurrence of such damage; provided, however, Licensee may terminate only if such damage or destruction substantially impairs its use or occupancy of the Premises for general office purposes. The effective date of termination shall be specified in the notice of termination, which date shall not be more than thirty (30) days from the date of the notice.

14.2 City Repairs. Notwithstanding anything to the contrary in this License, City shall have no obligation to repair the Premises or the Buildings in the event the damage or destruction is attributable to any act or omission of Licensee, its Agents or Invitees. In no event shall City be required to repair any damage to Licensee's Personal Property or any paneling, decorations, railings, floor coverings, or any Alterations installed or made on the Premises by or at the expense of Licensee.

14.3 Duties Upon Termination. Upon any termination of the Towing Agreement, Licensee shall leave the Property free and clear of all debris and Hazardous Materials deposited on the Property during the Terms of the Towing Agreement and Emergency Interim Agreement, both above and within the ground, except for any vehicles that City may in its sole and absolute discretion authorize to be stored

on the Property after termination of the Towing Agreement and any Hazardous Materials contained in such vehicles, and shall repair any damage to the Property for which Licensee is liable under the Towing Agreement and Emergency Interim Agreement, subject only to such adjustments as may be mutually agreed by the parties hereto in writing. If Licensee fails to remove any Alterations, furniture, debris, waste, or Hazardous Materials when requested to do so by City or fails to leave the Property in the condition required herein, City may remove such items and correct such condition at Licensee's sole expense, and charge said costs against the Security Deposit or the Maintenance Deposit, in the City's sole discretion, pursuant to Section 12.2 and 12.3 of the Towing Agreement and Sections 24.10 of this License, and Licensee is required to pay any expense or portions thereof not compensated by those funds.

14.4 Termination by City. In the event the Premises are substantially damaged or destroyed and City intends to rebuild for public purposes inconsistent with this License, City may terminate this License upon written notice to Licensee.

14.5 Licensee Waiver. City and Licensee intend that the provisions of this Section govern fully in the event of any damage or destruction and accordingly, City and Licensee each hereby waives the provisions of Section 1932, subdivision 2, and Section 1933, subdivision 4, of the Civil Code of California or under any similar law, statute or ordinance now or hereafter in effect.

15. EMINENT DOMAIN

15.1 Definitions.

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

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

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

15.2 General. If during the Term or during the period between the execution of this License and the Commencement Date, there is any Taking of all or any part of the Premises or any interest in this License, the rights and obligations of Licensee shall be determined pursuant to this Section. City and Licensee intend that the provisions hereof govern fully Licensee's rights in the event of a Taking and accordingly, Licensee hereby waives any right to terminate this License in whole or in part under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure or under any similar law now or hereafter in effect.

15.3 Total Taking; Automatic Termination. If there is a total Taking of the Premises, then this License shall terminate as of the Date of Taking.

15.4 Partial Taking; Election to Terminate.

15.4.1 If there is a Taking of any portion (but less than all) of the Premises, then this License shall terminate in its entirety under either of the following circumstances: (i) if all of the following exist: (A) the partial Taking renders the remaining portion of the Premises unsuitable for continued use by Licensee, (B) the condition rendering the Premises unsuitable either is not curable or is

curable but City is unwilling or unable to cure such condition, and (C) Licensee elects to terminate; or (ii) if City elects to terminate.

15.4.2 If Licensee elects to terminate under the provisions of this Section 15, Licensee shall do so by giving written notice to the City before or within thirty (30) days after the Date of Taking, and thereafter this License shall terminate upon the later of the thirtieth day after such written notice is given or the Date of Taking.

15.5 License Fee: Award. Upon termination of this License pursuant to an election under Section 15.4 above, then: (i) Licensee's obligation to pay the License Fee shall continue up until the date of termination, and thereafter shall cease, except that fee shall be reduced as provided in Section 15.6 below for any period during which this License continues in effect after the Date of Taking, and (ii) City shall be entitled to the entire Award in connection therewith (including, but not limited to, any portion of the Award made for the value of Licensee's interest under this License), and Licensee shall have no claim against City for the value of any unexpired term of this License, provided that Licensee may make a separate claim for compensation, and Licensee shall receive any Award made specifically to Licensee, for Licensee's relocation expenses or the interruption of or damage to Licensee's business or damage to Licensee's Personal Property.

15.6 Partial Taking: Continuation of License. If there is a partial Taking of the Premises under circumstances where this License is not terminated in its entirety under Section 15.4 above, then this License shall terminate as to the portion of the Premises so taken, but shall remain in full force and effect as to the portion not taken, and the rights and obligations of the parties shall be as follows: (a) Base Fee shall be reduced by an amount that is in the same ratio to the Base Fee as the area of the Premises taken bears to the area of the Premises prior to the Date of Taking; and (b) City shall be entitled to the entire Award in connection therewith (including, but not limited to, any portion of the Award made for the value of the License interest created by this License), and Licensee shall have no claim against City for the value of any unexpired term of this License, provided that Licensee may make a separate claim for compensation, and Licensee shall receive any Award made specifically to Licensee, for Licensee's relocation expenses or the interruption of or damage to Licensee's business or damage to Licensee's Personal Property.

15.7 Temporary Takings. Notwithstanding anything to contrary in this Section, if a Taking occurs with respect to all or any part of the Premises for a limited period of time not in excess of one hundred eighty (180) consecutive days, this License shall remain unaffected thereby, and Licensee shall continue to pay all fees and to perform all of the terms, conditions and covenants of this License. In the event of such temporary Taking, Licensee shall be entitled to receive that portion of any Award representing compensation for the use or occupancy of the Premises during the Term up to the total fee owing by Licensee for the period of the Taking, and City shall be entitled to receive the balance of any Award.

16. ASSIGNMENT AND SUBLETTING

Licensee shall not directly or indirectly (including, without limitation, by merger, acquisition or other transfer of any controlling interest in Licensee), voluntarily or by operation of law, sell, assign, encumber, pledge or otherwise transfer (collectively, "Assignment") any part of its interest in or rights with respect to the Premises, or permit any portion of the Premises to be occupied by anyone other than itself, or sublet or license any portion of the Premises (collectively, "Subletting"), without City's prior written consent in each instance, as provided herein. City hereby consents to the assignment of this License to Pick-N-Pull Auto Dismantlers in the event that Licensee is declared to be in default and/or the Towing Agreement is terminated pursuant to Sections 18 and/or 19 of the Towing Agreement during the Term of this License, and subject to all other conditions and requirements of this License and the Towing Agreement.

17. DEFAULT; REMEDIES

17.1 Events of Default. Any of the following shall constitute an event of default by Licensee hereunder:

17.1.1 A failure to pay the Base Fee or any other amount payable under this License when due, and such failure continues for three (3) days after the date of written notice by City. However, City shall not be required to provide such notice with respect to more than two delinquencies and any such failure by Licensee after Licensee has received two (2) such notices shall constitute a default by Licensee hereunder without any further action by City or opportunity of Licensee to cure except as may be required by Section 1161 of the California Code of Civil Procedure.

17.1.2 A failure to comply with any other covenant, condition or representation made under this License and such failure continues for fifteen (15) days after the date of written notice by City, provided that if such default is not capable of cure within such 15-day period, Licensee shall have a reasonable period to complete such cure if Licensee promptly undertakes action to cure such default within such 15-day period and thereafter diligently prosecutes the same to completion within sixty (60) days after the receipt of notice of default from City. City shall not be required to provide such notice with respect to more than two defaults and after the second notice any subsequent failure by Licensee shall constitute an event of default hereunder;

17.1.3 A vacation or abandonment of the Premises for a continuous period in excess of five (5) business days; or

17.1.4 An appointment of a receiver to take possession of all or substantially all of the assets of Licensee, or an assignment by Licensee for the benefit of creditors, or any action taken or suffered by Licensee under any insolvency, bankruptcy, reorganization, moratorium or other debtor relief act or statute, whether now existing or hereafter amended or enacted, if any such receiver, assignment or action is not released, discharged, dismissed or vacated within sixty (60) days.

17.2 City Rights Upon Default. Upon the occurrence of an event of default by Licensee, City shall have the right to terminate the License in addition to the following rights and all other rights and remedies available to City at law or in equity:

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

17.2.2 The rights and remedies provided by California Civil Code Section 1951.4 (continuation of lease after breach and abandonment), allowing City to continue this License in effect and to enforce all its rights and remedies under this License, including the right to recover the Base Fee as it becomes due, for so long as City does not terminate Licensee's right to possession, if Licensee has the right to sublet or assign, subject only to reasonable limitations. For purposes hereof, none of the following shall constitute a termination of Licensee's right of possession: acts of maintenance or preservation; efforts to relet the Premises or the appointment of a receiver upon City's initiative to protect its interest under this License; withholding consent to an Assignment or Sublicense, or terminating an Assignment or Sublicense, if the withholding or termination does not violate the rights of Licensee specified in subdivision (b) of California Civil Code Section 1951.4. If City exercises its remedy under California Civil Code Section 1951.4, City may from time to time sublet or license the Premises or any

part thereof for such term or terms (which may extend beyond the Term) and at such rent or fee and upon such other terms as City may in its sole discretion deem advisable, with the right to make alterations and repairs to the Premises. Upon each such subletting or sublicensing, Licensee shall be liable for Base Fee and any other amounts due hereunder, as well as the cost of such subletting or sublicensing and such alterations and repairs incurred by City and the amount, if any, by which fee owing hereunder for the period of such subletting or sublicensing (to the extent such period does not exceed the Term) exceeds the amount to be paid as rent or fee for the Premises for such period pursuant to such subletting or sublicensing. No action taken by City pursuant to this subsection shall be deemed a waiver of any default by Licensee, or to limit City's right to terminate this License at any time.

17.2.3 The right to have a receiver appointed for Licensee upon application by City to take possession of the Premises and to apply any fees or rental collected from the Premises and to exercise all other rights and remedies granted to City pursuant to this License.

17.3 City's Right to Cure Licensee's Defaults. If Licensee defaults in the performance of any of its obligations under this License, then City may, at its sole option, remedy such default for Licensee's account and at Licensee's expense by providing Licensee with three (3) days' prior written or oral notice of City's intention to cure such default (except that no such prior notice shall be required in the event of an emergency as determined by City). Such action by City shall not be construed as a waiver of such default or any rights or remedies of City, and nothing herein shall imply any duty of City to do any act that Licensee is obligated to perform. Licensee shall pay to City upon demand, all reasonable costs, damages, expenses or liabilities incurred by City, including, without limitation, reasonable attorneys' fees, in remedying or attempting to remedy such default. Licensee's obligations under this Section shall survive the termination of this License.

18. WAIVER OF CLAIMS; INDEMNIFICATION

18.1 Limitation on City's Liability: Waiver of Claims. Except as provided for in Sections 24.3 and 24.8, below, City shall not be responsible for or liable to Licensee, and Licensee hereby assumes the risk of, and waives and releases City and its Agents from all Claims (as defined below) for, any injury, loss or damage to any person or property in or about the Premises by or from any cause whatsoever including, without limitation, (i) any act or omission of persons occupying adjoining premises or any part of the Buildings adjacent to or connected with the Premises which are not occupied by City, (ii) theft, (iii) explosion, fire, steam, oil, electricity, water, gas or rain, pollution or contamination, (iv) stopped, leaking or defective Building Systems, (v) Building defects, and (vi) any other acts, omissions or causes. Nothing herein shall relieve City from liability caused solely and directly by the gross negligence or willful misconduct of City or its Agents, but City shall not be liable under any circumstances for any consequential, incidental or punitive damages.

18.2 Licensee's Indemnity. Except as provided for in Sections 24.3 and 24.8, below, Licensee, on behalf of itself and its successors and assigns, shall indemnify, defend and hold harmless ("Indemnify") the City and County of San Francisco including, but not limited to, all of its boards; commissions, departments, agencies and other subdivisions, and all of its and their Agents, and their respective heirs, legal representatives, successors and assigns (individually and collectively, the "Indemnified Parties"), and each of them, from and against any and all liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties and expenses, including, without limitation, direct and vicarious liability of every kind (collectively, "Claims"), incurred in connection with or arising in whole or in part from: (a) any accident, injury to or death of a person, including, without limitation, employees of Licensee, or loss of or damage to property, howsoever or by whomsoever caused, occurring in or about the Property; (b) any default by Licensee in the observation or performance of any of the terms, covenants or conditions of this License to be observed or performed on Licensee's part; (c) the use or occupancy or manner of use or occupancy of the Premises by Licensee, its Agents or Invitees or any person or entity claiming through or under any of them; (d) the

condition of the Premises; (e) any construction or other work undertaken by Licensee on the Premises whether before or during the Term of this License; or (f) any acts, omissions or negligence of Licensee, its Agents or Invitees, in, on or about the Premises or the Property, all regardless of the active or passive negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on, the Indemnified Parties, except to the extent that such Indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this License and further except only such Claims as are caused exclusively by the willful misconduct or gross negligence of the Indemnified Parties. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any Claim. Licensee specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Licensee by City and continues at all times thereafter. Licensee's obligations under this Section shall survive the termination of the License.

19. INSURANCE

19.1 Licensee's Insurance. Licensee, at its sole cost, shall procure and keep in effect at all times during the Term insurance for the Premises in the form and amounts and under the terms and conditions specified in the Section 11 of the Towing Agreement [Required Insurance]. Such insurance shall be subject to the approval of the Port Executive Director at the time of the execution of this License.

19.2 Licensee's Personal Property. Licensee shall be responsible, at its expense, for separately insuring Licensee's Personal Property.

19.3 City's Self Insurance. Licensee acknowledges that City self-insures against casualty, property damage and public liability risks and agrees that City may at its sole election, but shall not be required to, carry any third party insurance with respect to the Buildings, the Premises or otherwise.

19.4 Waiver of Subrogation. Notwithstanding anything to the contrary contained herein, to the extent permitted by their respective policies of insurance, City and Licensee each hereby waive any right of recovery against the other party and against any other party maintaining a policy of insurance covering the Buildings or the contents, or any portion thereof, for any loss or damage maintained by such other party with respect to the Buildings or the Premises or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of such other party. If any policy of insurance relating to the Premises earned by Licensee does not permit the foregoing waiver or if the coverage under any such policy would be invalidated due to such waiver, Licensee shall obtain, if possible, from the insurer under such policy a waiver of all rights of subrogation the insurer might have against City or any other party maintaining a policy of insurance covering the same loss, in connection with any claim, loss or damage covered by such policy.

20. ACCESS BY CITY

City reserves for itself and any of its designated Agents, the right to enter the Premises at all reasonable times, with or without advance notice, including, without limitation, in order to (i) oversee or inspect Licensee's operations or conduct any business with Licensee; (ii) show the Premises to prospective Licensees or other interested parties, to post notices of non-responsibility, to conduct any environmental audit of Licensee's use of the Premises, to repair, alter or improve any part of the Buildings, Building Systems or the Premises, and for any other lawful purpose; or (iii) whenever City believes that emergency access is required. City shall have the right to use any means that it deems proper to open doors in an emergency in order to obtain access to any part of the Premises, and any such entry shall not be construed or deemed to be a forcible or unlawful entry into or a detainer of, the

Premises, or an eviction, actual or constructive, of Licensee from the Premises or any portion thereof. Licensee shall not alter any lock or install any new or additional locking devices without the prior written consent of City. City shall at all times have a key with which to unlock all locks installed in the Premises (excluding Licensee's vaults, safes or special security areas, if any, designated by Licensee in writing to City).

21. LICENSEE'S CERTIFICATES

Licensee, at any time, and from time to time upon not less than ten (10) days' prior notice from City, shall execute and deliver to City or to any party designated by City a certificate stating: (a) that Licensee has accepted the Premises, (b) the Commencement Date and Expiration Date of this License, (c) that this License is unmodified and in full force and effect (or, if there have been modifications, that the License is in full force and effect as modified and stating the modifications), (d) whether or not there are then existing any defenses against the enforcement of any of Licensee's obligations hereunder (and if so, specifying the same), (e) whether or not there are any defaults then existing under this License (and if so specifying the same), (f) the dates, if any, to which the Base Fee and any other amounts owing under this License have been paid, and (g) any other information that may be required.

22. PREMISES MAINTENANCE REQUIREMENTS

Licensee shall faithfully comply with the Pier 70 Premises Maintenance Plan and the Pollution Prevention Plan which shall be adopted as part of the Operations Plan pursuant to Section 14(k) of the MOU and Section 14 of Appendix A of the Towing Agreement. The Operations Plan is hereby incorporated by reference into this License as though fully set forth herein. Any violation of the Pier 70 Premises Maintenance Plan or the Pollution Prevention Plan shall be a violation of Section 22 of this License. The Pier 70 Premises Maintenance Plan shall include, at a minimum, the elements described in this Section 22.

22.1 Maintenance of Pavement. Licensee shall maintain the pavement in good condition, including the vehicle and parts storage area, in order to prevent Releases of Hazardous Materials (as those terms are defined below) into or onto the Property or the environment. Licensee shall inspect the pavement at least monthly and shall record in written form the dates and times of such inspections, the name or names of the persons conducting the inspections, and any damage discovered to the pavement and its location. Licensee shall promptly repair any cracked or broken pavement and shall report such damage and repair to City. City shall have the right to enter and inspect the Property from time to time to ensure Licensee's compliance with the terms of this License, including, without limitation, this Section 22.1 and Section 22.2.

(a) Licensee must furnish at its own cost sealed concrete pads and hazardous waste containment systems for removing and storing residual fluids and batteries from vehicles;

(b) Licensee shall clean up and remove all leaked or spilled fluids immediately upon discovery or upon notice by City in accordance with the Pier 70 Premises Maintenance Plan.

(c) Licensee shall only store vehicles and parts in areas with pavement in good condition. Draining must take place on a sealed concrete pad with a containment system to collect residual fluids.

(d) Licensee may only use a trailer or other temporary structure as a yard office.

(e) Licensee must ensure that paving, including maintenance and repair, shall protect existing or future groundwater monitoring wells on the Premises.

22.2 Plan and Reporting.

In addition to the above requirements, the Pier 70 Premises Maintenance Plan shall provide for the initial seal coating of paved areas, supervised video or photo documentation of initial surface conditions, ongoing inspection, spill and drip response procedures, maintenance schedule for pavement maintenance and repair of cracks and other identified deficiencies, reapplication of seal coat, staff training protocols, and supervised video or photo documentation of exit surface conditions. In addition to pavement maintenance, this Plan shall include other property management protocols, including but not limited to, maintenance of fencing, lighting, signage and permanent or temporary buildings. The Plan shall also include a reporting schedule, with submittal of reports at least quarterly, documenting maintenance performed. Such reports shall include, the following information:

(a) An initial survey of pavement condition at the time of the Commencement Date of this License;

(b) Surface type and surface conditions at time of repair, including photographs of pre- and post-repair conditions;

(c) Repair procedure performed;

(d) Cost of repairs performed;

(e) A final survey of pavement condition at the time of termination of this License.

23. SURRENDER OF PREMISES

Upon the Expiration Date or other termination of the Term of this License, Licensee shall immediately peaceably quit and surrender to City the Premises together with all Alterations approved by City in good order and condition, except for normal wear and tear after Licensee's having made the last necessary repair required on its part under this License, and further except for any portion of the Premises condemned and any damage and destruction for which Licensee is not responsible hereunder. The Premises shall be surrendered free and clear of all liens and encumbrances other than liens and encumbrances existing as of the date of this License and any other encumbrances created by City. Immediately before the Expiration Date or other termination of this License, Licensee shall remove all of Licensee's Personal Property as provided in this License, and repair any damage resulting from the removal. Notwithstanding anything to the contrary in this License, City can elect at any time prior to the Expiration Date or within thirty (30) days after termination of this License, to require Licensee to remove, at Licensee's sole expense, all or part of Licensee's Alterations or other improvements or equipment constructed or installed by or at the expense of Licensee. Licensee shall promptly remove such items and shall repair, at its expense, any damage to the Premises or the Buildings resulting from such removal. Licensee's obligations under this Section shall survive the Expiration Date or other termination of this License. Any items of Licensee's Personal Property remaining in the Premises after the Expiration Date or sooner termination of this License may, at City's option, be deemed abandoned and disposed of in accordance with Section 1980 et seq. of the California Civil Code or in any other manner allowed by law. Any expenses or costs incurred by City to discharge liens, remove Licensee's Personal Property or Alterations, or repair any damage for which Licensee is responsible shall be charged against Licensee's Security Deposit.

Concurrently with the surrender of the Premises, Licensee shall, if requested by City, execute, acknowledge and deliver to City a quitclaim deed to the Premises and any other instrument reasonably requested by City to evidence or otherwise effect the termination of Licensee's interest hereunder and to effect such transfer or vesting of title to the Alterations or equipment which remain part of the Premises.

24. HAZARDOUS MATERIALS

24.1 Definitions. As used herein, the following terms shall have the meanings set forth below:

24.1.1 "Environmental Laws" shall mean any present or future federal, state, local or administrative law, rule, regulation, order or requirement relating to Hazardous Material (including, without limitation, their generation, use, handling, transportation, production, disposal, discharge or storage), or to health and safety, industrial hygiene or the environment, including, without limitation, soil, air and groundwater conditions, including without limitation Article 21 of the San Francisco Health Code.

24.1.2 "Hazardous Material" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is at any time now or hereafter deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health, welfare or safety or to the environment. Hazardous Material includes, without limitation, any material or substance listed or defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 et seq.) or pursuant to the Carpenter-Presley-Tanner Hazardous Substance Account Act, as amended, (Cal. Health & Safety Code Sections 25300 et seq.) or pursuant to the Hazardous Waste Control Law, as amended, (Cal. Health & Safety Code Sections 25100 et seq.) or pursuant to the Porter-Cologne Water Quality Control Act, as amended, (Cal. Water Code Sections 13000 et seq.) or pursuant to Section 25501(o) of the California Health and Safety Code; and petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

24.1.3 "Indemnify" shall mean, whenever any provision of this Section 24 requires a person or entity (the "Indemnitor") to Indemnify any other entity or person (the "Indemnitee"), the Indemnitor shall be obligated to defend, indemnify, hold harmless and protect the Indemnitee, its officers, employees, agents, stockholders, constituent partners, and members of its boards and commissions harmless from and against any and all Losses arising directly or indirectly, in whole or in part, out of the act, omission, event, occurrence or condition with respect to which the Indemnitor is required to Indemnify such Indemnitee, whether such act, omission, event, occurrence or condition is caused by the Indemnitor or its agents, employees or contractors, or by any third party or any natural cause, foreseen or unforeseen; provided that no Indemnitor shall be obligated to Indemnify any Indemnitee against any Loss from the negligence or intentional wrongful acts or omissions of such Indemnitee, or such Indemnitee's agents, employees or contractors. If a Loss is attributable partially to the negligent or intentionally wrongful acts or omissions of the Indemnitee (or its agents, employees or contractors), such Indemnitee shall be entitled to Indemnification for that part of the Loss not attributable to such Indemnitee's (or its agents, employees or contractors) negligent or intentionally wrongful acts or omissions.

24.1.4 "Investigate and Remediate" ("Investigation" and "Remediation") shall mean the undertaking of any activities to determine the nature and extent of Hazardous Material that may be located in, on, under or about the Property or surrounding property or that has been, is being or threaten to be Released into the environment, and to clean up, remove, contain, treat, stabilize, monitor or otherwise control such Hazardous Material.

24.1.5 "Losses" shall mean any and all claims, demands, losses, damages, liens, liabilities, injuries, deaths, penalties, fines, lawsuits and other proceedings, judgments and awards rendered therein, and costs and expenses, including, but not limited to, reasonable attorneys' fees.

24.1.6 "Release" when used with respect to Hazardous Material shall include any actual, threatened 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 any other part of the Property or into the environment.

24.2 No Hazardous Materials. Licensee covenants and agrees that neither Licensee nor any of its Agents, Employees or Invitees shall cause or permit any Hazardous Material to be brought upon, kept, used, stored, generated, processed, produced, packaged, treated, emitted, discharged or disposed of in, on or about the Property, or transported to or from the Property without the prior written consent of Port, which consent shall not be unreasonably withheld so long as Licensee demonstrates to Port's reasonable satisfaction that such Hazardous Material is necessary to Licensee's business, will be handled in a manner which strictly complies with all Environmental Laws and will not materially increase the risk of fire or other casualty to the Premises. City and Licensee understand that the vehicles transported to and stored at the Property will contain and may partially consist of Hazardous Materials. Licensee shall immediately notify City if and when Licensee learns or has reason to believe a Release of Hazardous Material on or about any part of the Property has occurred that may require any Investigation or Remediation. Licensee shall not be responsible for the safe handling of Hazardous Materials introduced on the Premises during the Term of the Towing Agreement by DPT, Port or their Agents.

Without limiting any other obligation of Licensee, if acts or omissions of Licensee results in any Hazardous Materials Release or contamination of the Premises, Licensee shall, at its sole expense, promptly take all action that is necessary to return the Premises to the condition existing prior to the introduction of such Hazardous Material in, on, under or about the Premises; provided that City approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions could not potentially have any material adverse effect upon the Premises.

24.3 Licensee's Environmental Indemnity. If Licensee breaches any of its obligations contained in this Section 24, or, if any act, omission or negligence of Licensee, its Agents, Employees or Invitees, results in any Release of Hazardous Material in, on or under any part of the Buildings or the Premises, then, Licensee shall, on behalf of itself and its successors and assigns, Indemnify the City from and against all Claims (including, without limitation, claims for injury to or death of a person, damages, liabilities, losses, judgments, penalties, fines, regulatory or administrative actions, damages for decrease in value of the Buildings or Premises, the loss or restriction of the use of rentable or usable space or of any amenity of the Buildings or Premises, damages arising from any adverse impact on marketing of any such space, restoration work requested by Port or required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or groundwater in, on or under the Premises or in any Improvements, and sums paid in settlement of claims, attorneys' fees, consultants' fees and experts' fees and costs) arising during or after the Term of the Towing Agreement and relating to such breach or Release. The foregoing Indemnity includes, without limitation, costs incurred in connection with activities undertaken to Investigate and Remediate any Release of Hazardous Material, and to restore the Buildings or Premises to their prior condition. This indemnification of Port and City by Licensee includes, but is not limited to, costs incurred in connection with any investigation of site conditions or any clean-up, remediation, removal or restoration work requested by Port or required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or groundwater in, on or under the Premises or in any Alterations. Licensee's obligations hereunder shall survive the termination of the Towing Agreement. Licensee's obligations under this section do not include an indemnity for Claims arising as a result of Hazardous Materials (or other conditions alleged to be in violation of any Environmental Law) in, on, or under any part of the Buildings or Premises that were present on March

22, 2004, to the extent that such Claims relate to conditions existing prior to March 22, 2004, and except to the extent that Licensee exacerbates any pre-existing condition. In the event any action or proceeding is brought against City by reason of a claim arising out of any Loss, Claim, injury or damage suffered on or about the Buildings or Premises for which Licensee has Indemnified the City and upon written notice from the City, Licensee shall at its sole expense answer and otherwise defend such action or proceeding using counsel approved in writing by the City. The City shall have the right, exercised in its sole discretion, but without being required to do so, to defend, adjust, settle or compromise any claim, obligation, debt, demand, suit or judgment against the City in connection with this License or the Buildings or Premises. In the event any action or proceeding is brought against Licensee by reason of a Claim arising out of any Loss, injury or damage suffered on or about the Buildings or Premises for which the City has Indemnified Licensee, and upon written notice from Licensee, City shall at its sole expense answer and otherwise defend such action or proceeding. The Licensee shall have the right, exercised in its sole discretion, but without being required to do so, to defend, adjust, settle or compromise any claim, obligation, debt demand, suit of judgment against the Licensee in connection with this Agreement or the Buildings or Premises. The provisions of this paragraph shall survive the termination of this Agreement with respect to any Loss occurring prior to or upon termination. Licensee and City shall afford each other a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, or other compromise or proceeding involving Hazardous Material.

24.4 Compliance with Environmental Laws. In addition to its obligations under Section 11, and without limiting any such obligations or the foregoing, Licensee shall comply with the following requirements or more stringent requirements in any Environmental Laws:

24.4.1 Any Hazardous Materials found and identified as such in the towed vehicles which are not typically part of a towed vehicle, will be removed from the vehicle to an appropriate storage location within 72 hours.

24.4.2 No Hazardous Materials shall be voluntarily or involuntarily disposed of onto or into the ground or into the sewer system.

24.4.3 In no event shall Hazardous Waste (as defined by Title 22 of the California Code of Regulations, as amended) accumulate on the Property for longer than 90 days. Drums used to store Hazardous Materials shall not be stacked more than two drums high. City will not consider fluids that are normally contained within a vehicle to be Hazardous Wastes so long as they remain contained within the vehicle.

24.4.4 Licensee shall store all Hazardous Materials above ground, not in underground storage tanks.

24.4.5 An emergency response plan, emergency response employee training plan and an inventory of Hazardous Materials stored on site shall be provided to DPT and the Port.

24.5 Information Requests. City may from time to time request, and Contractor shall be obligated to provide, information reasonably adequate for City to determine that any and all Hazardous Materials are being handled in a manner which complies with all Environmental Laws.

24.6 Damaged Vehicles. Licensee shall inspect all vehicles before storing them on the Property to make a good faith effort to determine that vehicles are not leaking fluids, including but not limited to gasoline, battery acid, oil, transmission and transfer case fluids, brake and clutch fluids, and coolant. Licensee shall secure vehicles that have been severely damaged due to collision or vandalism so that parts do not fall off and fluids do not leak. Leaking vehicles shall be drained of the leaking fluid

on a sealed cement pad, which Licensee shall maintain free of build-up of Hazardous Materials. Licensee shall immediately clean-up and remove all leaked or spilled fluids, whether within or outside of sealed or contained areas. Licensee shall treat all such fluids and used cleaning materials as hazardous waste and shall dispose of them in accordance with Environmental Laws and Section 24.4 above. Parts that have fallen off a vehicle shall be placed inside the vehicle in a manner that minimizes damage to the vehicle. Licensee shall not be deemed an owner or operator of any damaged vehicle, but shall be deemed the owner of any fluids that leak from such damaged vehicles on or about the Premises.

24.7 Fire Prevention Measures. Licensee shall comply with the following fire prevention measures.

24.7.1 Welding and torch cutting shall be in conformance with the San Francisco Fire Code.

24.7.2 No smoking will be allowed in the Property except in designated areas consistent with applicable local ordinances.

24.7.3 No crushing, burning of wrecked or discarded motor vehicles or waste materials shall be allowed.

24.7.4 Motor vehicles, parts of motor vehicles, junk, waste, or other materials shall not be stored, displayed, or kept in a manner that could hinder or endanger firefighting efforts and operations.

24.7.5 One or more aisles, at least 30 inches wide, must be maintained in the area where vehicles are stored, to permit access by the Fire Department to all parts of the vehicle storage area. Entrances and exits to the area shall be at least 15 feet in width.

24.8 Requirement to Remove. Prior to termination of the Towing Agreement or during the Term if required by a governmental agency, Licensee, at its sole cost and expense, shall remove any and all Hazardous Materials introduced in, on, under or about the Premises by Licensee, its Agents or Invitees during the term thereof or during any prior time in which Licensee occupied the Premises. Licensee shall not be obligated to remove any Hazardous Material introduced onto the Premises before, during, or after the Term of the Towing Agreement or the Emergency Interim Agreement by (1) City or its officers, directors, employees, or Agents or (2) any prior occupants, tenants, property owners, individuals, corporations or entities. If Licensee demonstrates its compliance with the property maintenance requirements of this License, the Pier 70 Premises Maintenance Plan described in Section 22 of this License and MOU Section 14(k), and the Pollution Prevention Plan described in MOU Section 14(k), there shall be a rebuttable presumption that any Hazardous Materials in, on, under or about the Property were not introduced by Licensee, its Agents or Invitees. However, if Licensee does not demonstrate its compliance with the property maintenance requirements of this License or of the Pollution Prevention Plan or the Pier 70 Premises Maintenance Plan, then there shall be a rebuttable presumption that such Hazardous Materials are Licensee's responsibility to the extent that the presence of such Hazardous Materials bear a reasonable causal relationship to Licensee's non-compliance in their composition and location.

At Licensee's cost, prior to the termination of this License, the Port shall have the right, but not the obligation, to conduct an inspection and audit of the Premises for the purpose of identifying Hazardous Materials existing on or under the Premises which Licensee is required to remove. Prior to the termination of the Towing Agreement, at Licensee's expense, City and Licensee shall conduct a joint inspection of the Premises for the purpose of identifying Hazardous Materials on the Premises which can be determined to have been introduced by the Licensee and which Licensee is therefore required to remove. City's failure to conduct an inspection or to detect conditions if an inspection is conducted

shall not be deemed to be a release of any liability for environmental conditions subsequently determined to be Licensee's responsibility.

24.9 Licensee's Environmental Condition Notification Requirements.

24.9.1 Notification of Any Release or Discharge. Licensee shall notify City in writing as required in the Pier 70 Premises Maintenance Plan if Licensee learns or has reason to believe that a Release of any Hazardous Materials on or about any part of the Property has occurred, whether or not the Release is in quantities that under any law would require the reporting of such Release to a governmental or regulatory agency.

24.9.2 Notification of Any Notice, Investigation, or Claim. Licensee shall also immediately notify City in writing of, and shall contemporaneously provide City with a copy of:

(a) Any written notice of Release of Hazardous Materials on the Premises that is provided by Licensee or any subtenant or other occupant of the Premises to a governmental or regulatory agency;

(b) Any notice of a violation, or a potential or alleged violation, of any Environmental Law that is received by Licensee or any subtenant or other occupant of the Premises from any governmental or regulatory agency;

(c) Any inquiry, investigation, enforcement, cleanup, removal or other action that is instituted or threatened by a governmental or regulatory agency against Licensee or subtenant or other occupant of the Premises and that relates to the Release of Hazardous Materials on or from the Premises;

(d) Any claim that is instituted or threatened by any third party against Licensee or any subtenant or other occupant of the Premises and that relates to any Release of Hazardous Materials on or from the Premises; and

(e) Any notice of the loss of any environmental operating permit by Licensee or any subtenant or other occupant of the Premises.

24.9.3 Notification of Inspection. Licensee shall immediately notify City in writing of any inspection by any governmental or regulatory agency with jurisdiction over Hazardous Materials and shall provide City with a copy of any inspection record, correspondence, reports and related materials from or to the agency.

24.10 Environmental Security Deposit. Upon the Commencement Date, Licensee shall provide to the City, and shall maintain throughout the Term of this License and for a period of at least ninety (90) days after expiration of this License, a Security Deposit in the form of a Letter of Credit as described in the Towing Agreement Section 12.2 and MOU Section 6. If Licensee receives a notice of violation or other regulatory order from a governmental or regulatory agency with jurisdiction over the site and or its operations (other than from the Port) and Licensee does not achieve compliance with the notice of violation or order to the satisfaction of the issuing agency within the time specified by the agency or by the City if the agency does not specify a timeframe, the City may draw upon the Letter of Credit for purposes of ensuring regulatory compliance. In addition, the City may draw upon the Letter of Credit in order to reimburse the City for any fine or other charge assessed against the City related to any notice of violation or other regulatory order issued to Licensee. The City may also draw upon the Letter of Credit in order to reimburse the City for costs associated with City's environmental assessments or corrective action, which may be performed at the City's sole discretion.

24.11 Environmental Oversight Deposit. Upon execution of the Towing Agreement, Licensee shall provide to the City, and shall maintain and replenish throughout the Term of this License and for a period of at least ninety (90) days after expiration of this License, an Environmental Oversight Deposit in the amount of $10,000, which shall be deposited in an account specified by City. If Licensee receives a notice of violation or other regulatory order from a governmental or regulatory agency with jurisdiction over the site and or its operations (other than from the Port), and such notice is not cured within fourteen (14) days, the City may draw from this deposit to reimburse the City for staff costs incurred by the City while inspecting site conditions and enforcing and administering the Hazardous Materials provisions of the License. If Licensee receives a notice of violation or other regulatory order from a governmental or regulatory agency with jurisdiction over the site and or its operations (other than from the Port), and such notice is cured within fourteen (14) days, the City may draw from this deposit in an amount not to exceed $500 to reimburse the City for staff costs incurred by the City. The City will submit an invoice to Licensee for any such costs, and Licensee will pay such invoiced amounts within thirty (30) days to replenish the Environmental Oversight Deposit. Licensee's failure to pay such costs within thirty (30) days, or to replenish the Environmental Oversight Deposit if drawn upon, will constitute an Event of Default.

24.12 Hazardous Substance Disclosure. California law requires landlords to disclose to tenants the presence or potential presence of certain hazardous materials and hazardous substances prior to lease. Accordingly, Licensee is hereby advised that occupation of the Premises may lead to exposure to Hazardous Materials such as, but not limited to, gasoline, diesel and other vehicle fluids, vehicle exhaust, office maintenance fluids, asbestos, PCBs, tobacco smoke, methane and building materials containing chemicals, such as formaldehyde. Further, there were and may be Hazardous Materials located on the Premises, which are described in the documents listed in Attachment 4. Licensee acknowledges that the documents listed in Attachment 4 have been provided to or have been made available to it.

By execution of this License, Licensee agrees that the notices and warnings set forth in this Section 24 have been provided pursuant to California Health and Safety Code Sections 25359.7 and related statutes. DPT agrees to provide additional information that comes into its possession regarding hazardous substances on the Premises upon request of Licensee.

25. GENERAL PROVISIONS

25.1 Notices. Any notice, demand, consent or approval required under Sections 4 (Term), 5 (Fee), 6.1 (Permitted Use), 6.7 (Fines), 7.5 (Removal of Alterations), 11.2.1 (Regulatory Approvals-Responsible Party), 14 (Damage and Destruction), 16 (Assignment and Subletting), 17 (Default; Remedies), 18 (Waiver of Claims; Indemnification), 19 (Insurance), 23 (Surrender of Premises), or 24 (Hazardous Materials) of this License shall be effective only if in writing and given by delivering the notice in person or by sending it first-class certified mail with a return receipt requested or by overnight courier, return receipt requested, with postage prepaid, to: (a) Licensee (i) at Licensee's address set forth in the Basic License Information, if sent prior to Licensee's taking possession of the Premises, or (ii) at the Premises if sent on or subsequent to Licensee's taking possession of the Premises, or (iii) at any place where Licensee or any Agent of Licensee may be found if sent subsequent to Licensee's vacating, abandoning or surrendering the Premises; or (b) City at City's address set forth in the Basic License Information; or (c) to such other address as either City or Licensee may designate as its new address for such purpose by notice given to the other in accordance with the provisions of this Section at least ten (10) days prior to the effective date of such change. Any notice hereunder shall be deemed to have been given two (2) days after the date when it is mailed if sent by first class or certified mail, one day after the date it is made if sent by overnight courier, or upon the date personal delivery is made. For convenience of the parties, copies of such notices, demands, consents or approvals may also be given by telefacsimile ("fax") to the telephone number set forth in the Basic License Information or such other number as may be provided from time to time; however,

neither party may give official or binding notice by facsimile. All other written communications may be by first class U.S. mail, postage pre-paid, by email or by fax addressed with the contact information set forth in the Basic License Information.

25.2 No Implied Waiver. No failure by City to insist upon the strict performance of any obligation of Licensee under this License or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, no acceptance of full or partial Base Fee or any other amounts owing under this License during the continuance of any such breach, and no acceptance of the keys to or possession of the Premises prior to the expiration of the Term by any Agent of City, shall constitute a waiver of such breach or of City's right to demand strict compliance with such term, covenant or condition or operate as a surrender of this License. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. Any consent by City hereunder shall not relieve Licensee of any obligation to secure the consent of City in any other or future instance under the terms of this License.

25.3 Amendments. Neither this License nor any term or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by both parties hereto.

25.4 Authority. If Licensee signs as a corporation or a partnership, each of the persons executing this License on behalf of Licensee does hereby covenant and warrant that Licensee is a duly authorized and existing entity, that Licensee has and is qualified to do business in California, that Licensee has full right and authority to enter into this License, and that each and all of the persons signing on behalf of Licensee are authorized to do so. Upon City's request, Licensee shall provide City with evidence reasonably satisfactory to City confirming the foregoing representations and warranties.

25.5 Parties and Their Agents; Approvals. The words "City" and "Licensee" as used herein shall include the plural as well as the singular. If there is more than one Licensee, the obligations and liabilities under this License imposed on Licensee shall be joint and several. As used herein, the term "Agents" when used with respect to either party shall include the agents, employees, officers, contractors and representatives of such party, and the term "Invitees" when used with respect to Licensee shall include the clients, customers, invitees, guests, licensees, assignees or sublicensees of Licensee. All approvals, consents or other determinations permitted or required by City hereunder shall be made by or through t DPT unless otherwise provided in this License, subject to applicable law.

25.6 Interpretation of License.

25.6.1 The captions preceding the articles and sections of this License and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this License.

25.6.2 This License has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intents and purposes of the parties, without any presumption against the party responsible for drafting any part of this License.

25.6.3 Provisions in this License relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or City holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day.

25.6.4 Use of the word "including" or similar words shall not be construed to limit any general term, statement or other matter in this License, whether or not language of non-limitation, such as "without limitation" or similar words, are used.

25.6.5 Any capitalized term used herein shall be interpreted in accordance with the definition set forth in this License. If the capitalized term is not defined in this License Agreement, it shall be interpreted in accordance with the definition set forth in the Towing Agreement or the MOU.

25.6.6 Order of Precedence: Any inconsistency between this License, the Towing Agreement and the MOU shall be resolved by giving precedence in the following order: (a) the Towing Agreement; (b) the MOU; (c) this License Agreement.

25.7 Successors and Assigns. Subject to the provisions of this License relating to Assignment and subletting, the terms, covenants and conditions contained in this License shall bind and inure to the benefit of City and Licensee and, except as otherwise provided herein, their personal representatives and successors and assigns; provided, however, that upon any sale, assignment or transfer by City named herein (or by any subsequent Licensor) of its interest in the Buildings as owner or lessee, including any transfer by operation of law, City (or any subsequent Licensor) shall be relieved from all subsequent obligations and liabilities arising under this License subsequent to such sale, assignment or transfer.

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

25.9 Governing Law. This License shall be construed and enforced in accordance with the laws of the State of California.

25.10 Entire Agreement. This License, together with all exhibits hereto, which are made a part of this License, and the Towing Agreement, constitute the entire agreement between City and Licensee about the subject matters hereof and may not be modified except by an instrument in writing signed by the party to be charged. In the event of any conflict between the terms of the Towing Agreement and the terms of this License, the terms of the License shall control. All prior written or oral negotiations, understandings and agreements are merged herein. The parties further intend that this License shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts hereof and changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this License. Licensee hereby acknowledges that neither City nor City's Agents have made any representations or warranties with respect to the Premises, the Buildings or this License except as expressly set forth herein, and no rights, easements or licenses are or shall be acquired by Licensee by implication or otherwise unless expressly set forth herein.

25.11 Attorneys' Fees. In the event that either City or Licensee fails to perform any of its obligations under this License or in the event a dispute arises concerning the meaning or interpretation of any provision of this License, the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder (whether or not such action is prosecuted to judgment), including, without limitation, court costs and reasonable attorneys' fees. For purposes of this License, reasonable fees of attorneys of City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San

Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

25.12 Holding Over. Any holding over after the fifth (5th) anniversary of the Commencement Date with the express consent of City shall be construed to automatically extend the Term of this License on a month-to-month basis at a fee, in the sole discretion of the City, up to one hundred twenty percent (120%) of the latest Base Fee payable by Licensee hereunder prior to such anniversary, and shall otherwise be on the terms and conditions herein specified so far as applicable. Any holding over after the fifth (5th) anniversary of the Commencement Date without City's consent shall constitute a default by Licensee and entitle City to exercise any or all of its remedies as provided herein, notwithstanding that City may elect to accept one or more payments of a fee, and whether or not such amounts are at the holdover rate specified above or the rate in effect as of the fifth (5th) anniversary of the Commencement Date of the License.

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

25.14 Cumulative Remedies. All rights and remedies of either party hereto set forth in this License shall be cumulative, except as may otherwise be provided herein.

25.15 Provisions of License Surviving Termination. Termination of this License shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this License. This Section and the following Sections of this License shall survive termination or expiration of the is License: Sections 2.1.4, 5, 6.7, 7, 12, 14, 17.2, 17.3, 18, , 23, 24.1, 24.2, 24.3, 24.5, 24.8, 24.9, 24.10, 24.11, 25.6, 25.7, 25.8, 25.9, 25.10, 25.11, 25.12, 25.14, 25.22, 25.26, 25.31.

25.16 Signs. Licensee agrees that it will not erect or maintain, or permit to be erected or maintained, any signs, notices or graphics upon or about the Premises which are visible in or from public corridors or other portions of any common areas of the Buildings or from the exterior of the Premises without City's prior written consent, which City may withhold or grant in its sole discretion.

25.17 Relationship of the Parties. City is not, and none of the provisions in this License shall be deemed to render City, a partner in Licensee's business, or joint venturer or member in any joint enterprise with Licensee. Neither party shall act as the agent of the other party in any respect hereunder. This License is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided.

25.18 Light and Air. Licensee covenants and agrees that no diminution of light, air or view by any structure that may hereafter be erected (whether or not by City) shall entitle Licensee to any reduction of the Base Fee under this License, result in any liability of City to Licensee, or in any other way affect this License or Licensee's obligations hereunder.

25.19 No Recording. Licensee shall not record this License or any memorandum hereof in the public records.

25.20 Options Personal. Any right or option to extend the Term of this License or renew this License is personal to the original Licensee and may be exercised only by the original Licensee while occupying the Premises who does so without the intent of thereafter making any Assignment of this License or Subletting of the Premises, or any portion thereof, and may not be exercised by or assigned, voluntarily or involuntarily, by or to any person or entity other than Licensee. The options, if any, herein granted to Licensee are not assignable separate and apart from this License, nor may any option be separated from this License in any manner, either by reservation or otherwise.

25.21 Public Transit Information. Licensee shall establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Licensee employed on the Premises, including, without limitation, the distribution to such employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the Buildings and encouraging use of such facilities, all at Licensee's sole expense.

25.22 Taxes, Assessments, Licenses, Permit Fees and Liens. (a) Licensee recognizes and understands that this License may create a possessory interest subject to property taxation and that Licensee may be subject to the payment of property taxes levied on such interest. (b) Licensee agrees to pay taxes of any kind, including possessory interest taxes, that may be lawfully assessed on the License interest hereby created and to pay all other taxes, excises, licenses, permit charges and assessments based on Licensee's usage of the Premises that may be imposed upon Licensee by law, all of which shall be paid when the same become due and payable and before delinquency. (c) Licensee agrees not to allow or suffer a lien for any such taxes to be imposed upon the Premises or upon any equipment or property located thereon without promptly discharging the same, provided that Licensee, if so desiring, may have reasonable opportunity to contest the validity of the same. (d) Licensee acknowledges that it is familiar with San Francisco Administrative Code Sections 23.38 and 23.39 which require that the City and County of San Francisco report certain information relating to this License, and any renewals thereof, to the County Assessor within sixty (60) days after any such transaction, and that Licensee report certain information relating to any assignment of or Sublicense under this License to the County Assessor within sixty (60) days after such assignment or Sublicense transaction. Licensee agrees to provide such information as may be requested by the City to enable the City to comply with this requirement.

25.23 Wages And Working Conditions. With respect to the construction of any Alterations, any employee performing services for Licensee shall be paid not less than the highest prevailing rate of wages as required by Section a7.204 of the City and County of San Francisco Charter and Sections 6.33 through 6.45 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. Licensee shall require any Licensee to provide, and shall deliver to City every two weeks during any construction period, certified payroll reports with respect to all persons performing labor in the construction of the Licensee improvement work or any Alterations on the Premises.

25.24 Non-discrimination in City Contracts and Benefits Ordinance.

25.24.1 Covenant Not to Discriminate. In the performance of this License, Licensee 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 of, any City employee working with, or applicant for employment with, Licensee, in any of Licensee'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 Licensee.

25.24.2 Subcontracts. Licensee shall include in all assignment, subleases or other subcontracts relating to the Premises a non-discrimination clause applicable to such assignee, sublicensee or other subcontractor in substantially the form of subsection (a) above. In addition, Licensee shall incorporate by reference in all assignments, subleases, and other 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 assignees, sublicensees and other subcontractors to comply with such provisions. Licensee's failure to comply with the obligations in this subsection shall constitute a material breach of this License.

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

25.24.4 HRC Form. As a condition to this License, Licensee 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.

25.24.5 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 License of City property are incorporated in this Section 26.26 by reference and made a part of this Agreement as though fully set forth herein. Licensee shall comply fully with and be bound by all of the provisions that apply to this License under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Licensee understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this License may be assessed against Licensee and/or deducted from any payments due Licensee.

25.25 Non-Liability of City Officials, Employees and Agents. No elective or appointive board, commission, member, officer, employee or other Agent of City shall be, personally liable to Licensee, its successors and assigns, in the event of any default or breach by City or for any amount which may become due to Licensee, its successors and assigns, or for any obligation of City under this Agreement.

25.26 No Relocation Assistance: Waiver of Claims. Licensee acknowledges that it will not be a displaced person at the time this License is terminated or expires by its own terms, and Licensee fully RELEASES, WAIVES AND DISCHARGES forever any and all Claims against, and covenants not to sue, City, its departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, under any laws, including, without limitation, any and all claims for relocation benefits or assistance from City under federal and state relocation assistance laws (including, but not limited to, California Government Code Section 7260 et seq.), except as otherwise specifically provided in this License with respect to a Taking.

25.27 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 then 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. Licensee acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

25.28 Tropical Hardwood and Virgin Redwood Ban. 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 product. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco

Environment Code, Licensee shall not provide any items to the construction of Alterations, or otherwise in the performance of this License which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. In the event Licensee fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Licensee shall be liable for liquidated damages for each violation in any amount equal to Licensee's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater.

25.29 **Pesticide Prohibition.** Licensee shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "Pesticide Ordinance") which **(i)** prohibit the use of certain pesticides on City property, **(ii)** require the posting of certain notices and the maintenance of certain records regarding pesticide usage and **(iii)** require Licensee to submit to the Municipal Transportation Agency an integrated pest management ("IPM") plan that **(a)** lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Licensee may need to apply to the Premises during the terms of this License, **(b)** describes the steps Licensee will take to meet the City's IPM Policy described in Section 300 of the Pesticide Ordinance and **(c)** identifies, by name, title, address and telephone number, an individual to act as the Licensee's primary IPM contact person with the City. In addition, Licensee shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance.

25.30 **First Source Hiring Ordinance.** The 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 the Municipal Transportation Agency adopts a First Source Hiring Implementation and Monitoring Plan in accordance with the First Source Hiring Ordinance, Licensee shall enter into a First Source Hiring Agreement that meets the applicable requirements of Section 83.9 of the First Source Hiring Ordinance.

25.31 **Sunshine Ordinance.** In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, Licensees' 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.

25.32 **Conflicts of Interest.** Through its execution of this License, Licensee 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 provision, and agrees that if Licensee becomes aware of any such fact during the term of this License Licensee shall immediately notify the City.

25.33 **Charter Provisions.** This License is governed by and subject to the provisions of the Charter of the City and County of San Francisco.

25.34 **Prohibition of Tobacco Advertising.** Licensee acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of the City, including the Premises and the Property. 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 communication

the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

25.35 Requiring Health Benefits for Covered Employees. Unless exempt, Licensee agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated herein by reference and made a part of this License as though fully set forth. The text of the HCAO is available on the web at www.dph.sf.ca.us/HCRes/Resolutions/2004Res/HCRes102004.shtml. Capitalized terms used in this Section and not defined in this License shall have the meanings assigned to such terms in Chapter 12Q.

25.35.1 For each Covered Employee, Licensee shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Licensee chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

25.35.2 Notwithstanding the above, if the Licensee is a small business as defined in Section 12Q.3(d) of the HCAO, it shall have no obligation to comply with Subsection 25.35.1 above.

25.35.3 Licensee's failure to comply with the HCAO shall constitute a material breach of this License. City shall notify Licensee if such a breach has occurred. If, within thirty (30) days after receiving City's written notice of a breach of this License for violating the HCAO, Licensee fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, Licensee fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

25.35.4 Any Subcontract entered into by Licensee shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Licensee shall notify City when it enters into such a Subcontract and shall certify to the City that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Licensee shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Licensee based on the Subcontractor's failure to comply, provided that City has first provided Licensee with notice and an opportunity to obtain a cure of the violation.

25.35.5 Licensee shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Licensee's compliance or anticipated compliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

25.35.6 Licensee represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

25.35.7 Licensee shall keep itself informed of the current requirements of the HCAO.

25.35.8 Licensee shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Sublicensees, as applicable.

25.35.9 Licensee shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least five (5) business days to respond.

25.35.10 City may conduct random audits of Licensee to ascertain its compliance with HCAO. Licensee agrees to cooperate with City when it conducts such audits.

25.35.11 If Licensee is exempt from the HCAO when this License is executed because its amount is less than Twenty-Five Thousand Dollars ($25,000), but Licensee later enters into an agreement or agreements that cause Licensee's aggregate amount of all agreements with City to reach Seventy-Five Thousand Dollars ($75,000), all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Licensee and DPT to be equal to or greater than Seventy-Five Thousand Dollars ($75,000) in the fiscal year.

25.36 Notification of Limitations on Contributions. Through its execution of this License, Licensee 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 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 the officer at any time from the commencement of negotiations for such contract until the termination of negotiations for such contract or three (3) months has elapsed from the date the contract is approved by the 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 Licensee 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 Licensee or a City officer or employee. Negotiations are completed when a contract is finalized and signed by the City and the Licensee. Negotiations are terminated when the City and/or the prospective Licensee end the negotiation process before a final decision is made to award the contract.

25.37 Preservative-Treated Wood Containing Arsenic. As of July 1, 2003, Licensee may not purchase preservative-treated wood products containing arsenic in the performance of this License 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. Licensee 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 Licensee 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.

25.38 References. No reference to this License Agreement is necessary in any instrument or document at any time referring to the Agreement. Any future reference to the Agreement shall be deemed a reference to such document as amended hereby.

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

25.40 NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LICENSE, LICENSEE ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS LICENSE UNLESS AND UNTIL CITY'S BOARD OF SUPERVISORS SHALL HAVE DULY ADOPTED A RESOLUTION APPROVING THE TOWING AGREEMENT AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED IN THIS LICENSE. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS LICENSE SHALL BE NULL AND VOID IF CITY'S MAYOR AND THE BOARD OF SUPERVISORS DO NOT APPROVE THIS LICENSE, IN THEIR RESPECTIVE SOLE DISCRETION. APPROVAL OF THIS LICENSE BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ENACTED, NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

City and Licensee have executed this License as of the date first written above.

IN WITNESS WHEREOF, the parties hereto have executed this License on the day first mentioned above.

LICENSOR

Recommended by:

BOND YEE
Acting Director
Department of Parking and Traffic

APPROVED:

Director of Transportation, Acting
Municipal Transportation Agency

Municipal Transportation Agency
Board of Directors
Resolution No. 05-085

Adopted: JUNE 7, 2005

Attest:

Secretary, MTA Board

Approved as to Form:

Dennis J. Herrera
City Attorney

By: Christiane Hayashi
Deputy City Attorney

LICENSEE

JOHN WICKER
President and CEO
TEGSCO, LLC,
d.b.a. San Francisco AutoReturn
450 7th Street
San Francisco, CA 94103
Phone No.: 415-626-3380
Federal Employer ID No.: 01-0688299

LIST OF ATTACHMENTS

1. Description and Map of Premises
2. Notice of Licensee's Acceptance and Occupancy
3. Port Executive Director's Consent to License and Insurance
4. Hazardous Substance Disclosure

ATTACHMENT 1

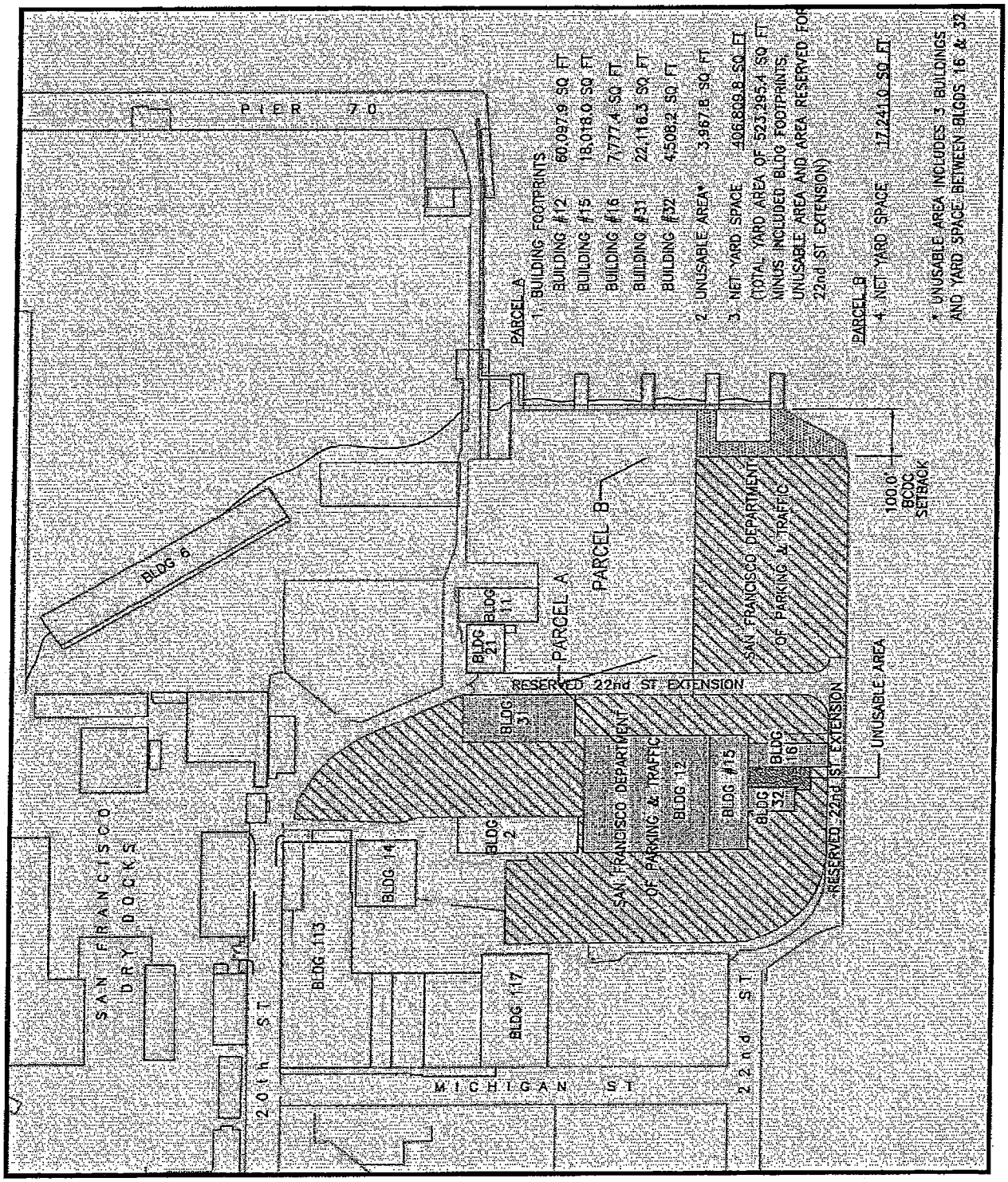
Description of Premises

a. Parcel A. The area located at Pier 70 and SWL 349 in the City and County of San Francisco, California, shown outlined and marked as Parcel A, including approximately 406,810 square feet of paved land and 112,518 square feet of shed space contained in 5 buildings, and 3,967.8 square feet of Unusable Area, and reserving a non-exclusive right of way in the general area shown on, as Reserved 22nd Street Extension, an area extending from the east end of 22nd Street through Parcel A and connecting with the east end of 20th Street, together with any improvements located thereon, all as shown as Parcel A in this Attachment A, Map of Premises (the "Parcel A Premises"). The Unusable Area of the Premises is subject to all terms and conditions of this License.

b. Parcel B. Subject to the obligation to obtain a permit from the San Francisco Bay Conservation and Development Commission ("BCDC") for the uses contemplated under this License and the MOU, Parcel B includes the area located at Pier 70 and SWL 349 in the City and County of San Francisco, California, shown outlined and marked Parcel B, including approximately 17,241 square feet of paved land, all as shown as Parcel B in this Attachment A, Map of Premises (the "Parcel B Premises").

c. Definition of Premises. The Parcel A Premises and the Parcel B Premises are hereinafter collectively referred to as the "Premises."

ATTACHMENT 1, continued
Map of Premises



APPENDIX D: Pier 70 Property License

ATTACHMENT 2
NOTICE OF CONDITIONAL ACCEPTANCE AND OCCUPANCY

_[Date]

Mr. Steve Bell
Department of Parking and Traffic
Attention: Steve Bell
25 Van Ness Avenue, Suite 230
San Francisco, CA 94105

RE: Acknowledgement of Commencement Date under the License granted by the City and County of San Francisco (Licensor) to TEGSCO, LLC, d.b.a. San Francisco AutoReturn (Licensee) for a portion of the Pier 70.

Dear Mr. Bell:

This letter will confirm that, except as described below, for all purposes of the License identified as Appendix D to the Service Agreement and Property Use License for Towing, Storage, and Disposal of Abandoned and Illegally Parked Vehicles between the City and County of San Francisco and San Francisco AutoReturn, the Commencement Date (as defined in Section 4 of the License) is July 31, 2005. However, as of that date AutoReturn's acceptance of the Property is expressly made conditional upon (1) completion of a program acceptable to the City and AutoReturn to clean and seal all paved surfaces at Pier 70, and (2) completion of City's obligation to recondition the City Tow dismantling area at Pier 70, described in the Iris Environmental report dated April 21, 2005. This conditional acceptance shall not affect the base fee amount due under the Pier 70 License.

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

Very truly yours,

_____
By
Title
Auto Return

Accepted and Agreed:

By _____
STEVE BELL
Contract Administrator

Dated_____

ATTACHMENT 3

LETTER FROM PORT EXECUTIVE DIRECTOR TO DPT
ACCEPTING LICENSE
AND
LICENSEE'S INSURANCE
TO BE INSERTED HERE

ATTACHMENT 4

HAZARDOUS SUBSTANCES DISCLOSURE

Pier 70 Information Responsive to Your Requests (Our File No. 508500.00001) Holland & Knight LLP, June 27, 2000

Current Status Report on Pick Your Part/Pier 70 Issues (Our File No. 508500.00001) Holland & Knight LLP, August 2, 2000

Paving Plan and Environment Work Plan for Pick Your Part – August 24, 2000

Soil Remediation Report, Pick Your Part, Inc., Pier 70, Iris Environmental, December 12, 2000.

Asbestos Abatement Report Pick Your Part Inc. Pier 70, San Francisco Iris Environmental Job 00-147-B May, 22, 2001

Site History Report and Workplan City Tow Pier 70, Iris Environmental February 7, 2002

Soils Analysis Report and Mitigation Plan, City Tow, Pier 70, Iris Environmental, July 10, 2002

Certification Report, Pick Your Part, Inc. Pier 70, San Francisco, California, Iris Environmental December 19, 2003

Proposed Closure and Post-Closure Plan, Pick Your Part, February 19, 2004

Final Closure Report, Pick Your Part, March 22, 2004

Supplemental Investigation Report, Former Car Crusher Building, Former City Tow – Pier 70, Iris Environmental, March 3, 2005

Source Investigation Report, Potrero Power Plant for PG&E, Geomatrix, March 2004

Negative Declaration dated February 13, 1987, Amended March 4, 1987, by City and County of San Francisco Department of City Planning, for Project 86.671EC "Vehicle Towing Facil."

Site Investigation Report Former Crusher Building Pick Your Part, Inc. Pier 70, San Francisco, California, July 13, 2004

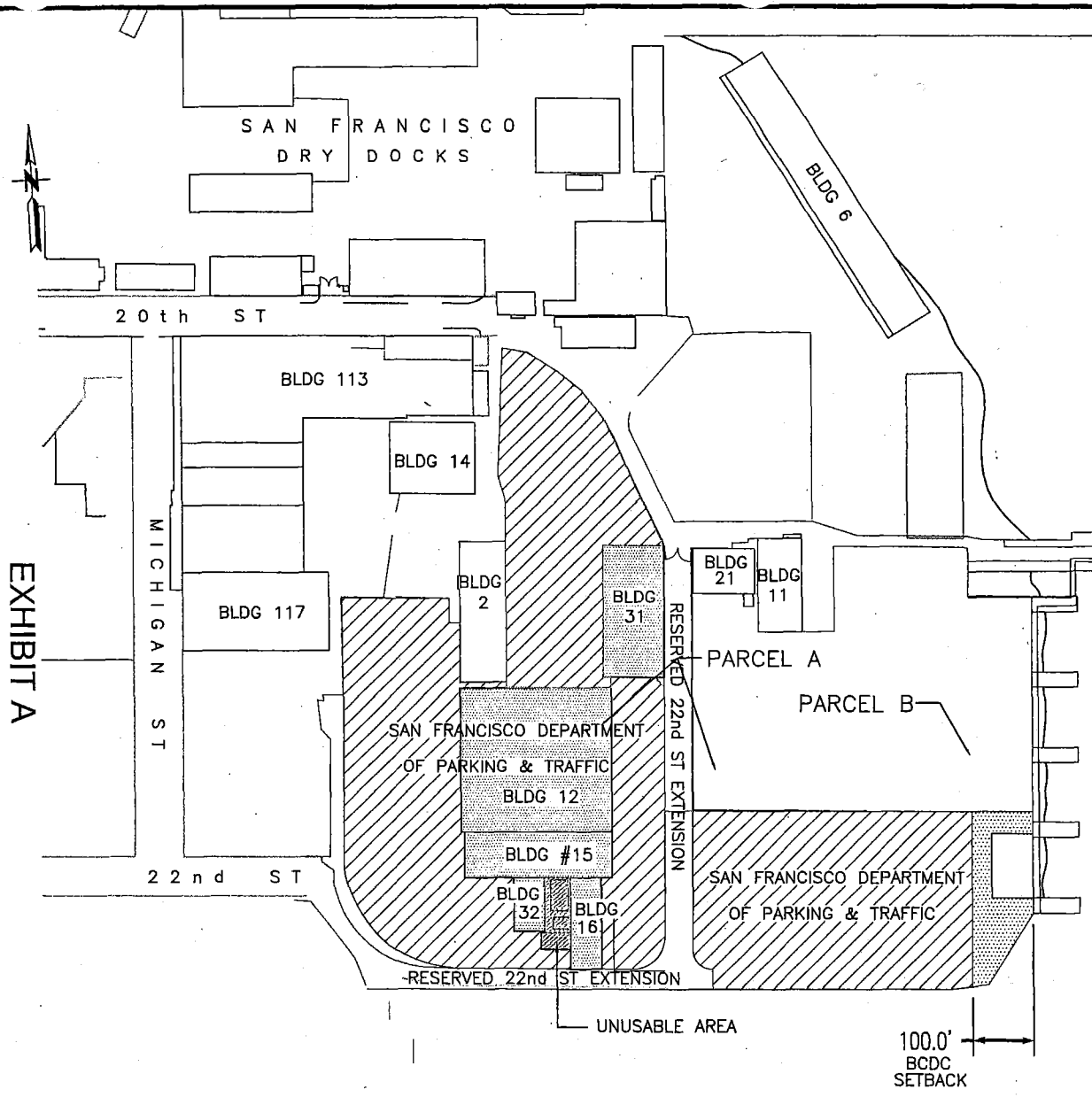


EXHIBIT A

INITIALS: PORT: _____ TENANT: _____ DATE: _____

730

PARCEL A

1. BUILDING FOOTPRINTS

BUILDING #12	60,097.9 SQ FT
BUILDING #15	18,018.0 SQ FT
BUILDING #16	7,777.4 SQ FT
BUILDING #31	22,116.3 SQ FT
BUILDING #32	4,508.2 SQ FT

2. UNUSABLE AREA* 3,967.8 SQ FT

3. NET YARD SPACE 406,809.8 SQ FT
(TOTAL YARD AREA OF 523,295.4 SQ FT MINUS INCLUDED BLDG FOOTPRINTS, UNUSABLE AREA AND AREA RESERVED FOR 22nd ST EXTENSION)

PARCEL B

4. NET YARD SPACE 17,241.0 SQ FT

* UNUSABLE AREA INCLUDES 3 BUILDINGS AND YARD SPACE BETWEEN BLGDS 16 & 32

LEASE NO. M-13828	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	TENANT SAN FRANCISCO DEPT. OF PARKING & TRAFFIC	DRAWN BY: ECC CHECKED BY: M LOZOVOY PLACE CODE NO. 3490-OC-002 DATE: APR 26, 2005 SCALE: 1"= 300' SHEET NO. OF SHEETS

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First Amendment to the Revocable License for the Use of Certain Property on Pier 70, San Francisco, California

This First Amendment to the Revocable License for the Use of Certain Property on Pier 70, San Francisco, California (the "First Amendment") is entered into by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, acting by and through its Municipal Transportation Agency ("City" "SFMTA" or "Licensor"), and TEGSCO, LLC, a California limited liability company, d.b.a. San Francisco AutoReturn ("Licensee").

RECITALS

This First Amendment is made with reference to the following facts:

A. Effective on July 31, 2005, the San Francisco Port Commission ("Port") and SFMTA entered into a lease of certain real property located at Pier 70 in the City and County of San Francisco, State of California as more particularly described in a Memorandum of Understanding between the Port and SFMTA (the "Original MOU"). In accordance with the Original MOU, SFMTA simultaneously entered into the Service Agreement and Property Use License for Towing, Storage, and Disposal of Abandoned and Illegally Parked Vehicles with Licensee to conduct automobile towing and storage operations for the City (the "Original Agreement"), which included a license to use the Port property for storage and other required services (the "Original License"), to which Port consented as required by the Original MOU. The Original Towing Agreement expires on July 30, 2010. The Original MOU had a five-year term expiring on July 30, 2010 and an extension option through March 1, 2012. Through correspondence (including a letter dated February 17, 2009 from Port to SFMTA), Port and SFMTA agreed to extend the Original MOU until March 1, 2012.

B. SFMTA and Licensee executed a first amendment to the Original Agreement in June of 2007, which included a change in the rate schedule for towing. SFMTA and Licensee have now decided to enter into an Amended and Restated Service Agreement and Property Use License for Towing, Storage, and Disposal of Abandoned and Illegally Parked Vehicles (the "Towing Agreement"), which will further amend the Original Agreement, including an extension of the term until July 31, 2015, without a competitive bid, subject to approval by the Board of Supervisors.

C. The Original MOU contemplated that it would be concurrent with the Original Agreement. Thus SFMTA and Port now intend to enter into a First Amendment to the Original MOU to extend the MOU until July 31, 2015, or longer, to cover any additional term with Licensee or another SFMTA contractor. Port and the SFMTA will also amend the Original MOU to reflect the Port's decision to issue a competitive solicitation for a private development partner for the waterfront site that includes the Premises leased to SFMTA through the Original MOU. Specifically, Port and SFMTA intend to amend the Original MOU to: (i) permit the Port, with SFMTA's approval, to reconfigure the Premises with one hundred-eighty (180) days notice from Port to MTA, and partial rent credits for some relocation costs; (ii) add an additional five (5) year term from the original expiration date and to allow a year to year holdover tenancy at an increased monthly base rate of 110% in the first year, and increased by 110% in the eighteenth month, with an annual CPI increase in each year of the term and annually during any holdover period of longer than 12 months; (iii) provide for partial or complete termination by either party with twelve (12) months notice; (iv) allow Port to access up to 15% of the Premises to facilitate development of Pier 70, with ninety (90) days notice from Port to MTA, with rent credits or third party reimbursement for specified relocation costs; (v) require MTA to conduct a relocation study; (vi) add a requirement that MTA comply with Port's Southern Waterfront Beautification Policy, which was adopted subsequent to the effectiveness of the Original MOU, through specified actions and to authorize rent credits for a portion of same; and (vii) make other changes consistent with the above.

D. In light of the pending extension of the terms of both the Original Agreement and the Original MOU, and in light of the other contemplated changes to the Original MOU, SFMTA and

Licensee now wish to amend the Original License to extend the term until July 31, 2015, and to conform with the other changes contained in the First Amendment to the Original MOU.

E. The Original License and this First Amendment shall collectively be referred to as the "License." All capitalized terms used herein but not otherwise defined shall have the meaning given to them in the Original License.

NOW THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the Port and SFMTA hereby amend the Original MOU as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference as if fully set forth herein.

2. The parties agree that SFMTA is the successor to DPT and that SFMTA will fulfill all of the obligations and responsibilities and have all of the rights of SFMTA as set forth in the Original License. All references in the License to "DPT" shall now be to "SFMTA".

3. On the Effective Date of this First Amendment, the introductory paragraph to the License shall be deleted and replaced with the following:

THIS REVOCABLE LICENSE TO ENTER AND USE PROPERTY ("License"), between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, acting by and through its Municipal Transportation Agency, Department of Parking and Traffic ("City" "SFMTA" or "Licensor"), and TEGSCO, LLC, a California limited liability company, d.b.a. San Francisco AutoReturn ("Licensee") is Appendix D to the Service Agreement and Property Use License for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles between City and Licensee, (hereinafter "Towing Agreement"), which is incorporated herein by reference as if fully set forth herein. Any capitalized term not defined herein shall have the meaning set forth in the Towing Agreement and the Memorandum of Understanding No. M-13828 between SFMTA and the San Francisco Port Commission (the "Port"), as amended from time to time, a copy of which is attached as Appendix C to the Towing Agreement (the Original MOU and all of its amendments are collectively the "MOU"), and which is incorporated by reference as though fully set forth herein. Consent to this License by the Executive Director of the Port of San Francisco is attached hereto as Attachment 3.

4. On the Effective Date of this First Amendment, Paragraph 1of the License shall be deleted and replaced with the following:

1. BASIC LICENSE INFORMATION

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

Licensor:	CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION THROUGH ITS SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY
Licensee:	TEGSCO, LLC, d.b.a. SAN FRANCISCO AUTORETURN, A CALIFORNIA LIMITED LIABILITY COMPANY
Buildings (Section 2.1):	Building 12, Building 15, Building 16, Building 31 and Building 32, all located at Seawall Lot 349, Pier 70, San Francisco, California (collectively, the "Buildings").
Premises (Section 2.1):	Certain portions of Seawall Lot 349, located at Pier 70, all as shown on Attachment 1

Term (Section 4):	Commencement Date: August 1, 2005. Expiration Date: July 31, 2015, or upon the date of earlier termination pursuant to Paragraph 4 of this License.
Base Fee (Section 5):	Monthly License Fee: $118,830.00 for Parcel A and $2,850 for Parcel B, both as shown on Attachment 1.
Permitted Use (Section 6.1):	Parking space for the storage and transfer of vehicles, public lien sale auctions and office space for the administration of Licensee's operations under the Towing Agreement.
Utilities and Services (Section 10):	Provided and paid by Licensee.
Security (Section 6.5):	Licensee shall be solely responsible for the security of the Premises.
Security Deposit (Section 24.10):	Security Deposit shall be maintained in accordance with the terms of Section 12 [Financial Assurances] of the Towing Agreement and Section 6 of the MOU.
Notices to the Parties: (Section 25.1)	Any notice, demand, consent or approval required under Sections 4 (Term) , 5 (Fee), 6.1 (Permitted Use), 6.7 (Fines), 7.5 (Removal of Alterations), 11.2.1 (Regulatory Approvals-Responsible Party), 14 (Damage and Destruction), 16 (Assignment and Subletting), 17 (Default; Remedies), 18 (Waiver of Claims; Indemnification), 19 (Insurance), 23 (Surrender of Premises), or 24 (Hazardous Materials) of this License must be sent by first class certified U.S. mail with return receipt requested, or by overnight courier, return receipt requested, with postage pre-paid. All other written communications, unless otherwise indicated elsewhere in this License, may be by first class U.S. mail, by email, or by fax. All communications related to this License shall be addressed as follows:
To Licensee:	San Francisco AutoReturn Attention: John Wicker 945 Bryant Street San Francisco, CA 94103 Phone No.: (415) 575-2355 Fax No.: (415) 575-2341 Email: jwicker@autoreturn.com
To City:	San Francisco Municipal Transportation Agency Attention: Lorraine Fuqua 1 South Van Ness Avenue, Suite 800 San Francisco, CA 94102 telephone: 415-701-4678 facsimile: 415-701-4736 Email: lorraine.fuqua@sfmta.com and to:

Director of Real Estate
Port of San Francisco
Pier 1
San Francisco, CA 94111
telephone: (415) 274-0510
facsimile: (415) 274-0578

5. On the Effective Date of this First Amendment, Paragraph 2.1.3 of the License shall be deleted and replaced in its entirety as follows:

2.1.3 Upon request from Port to SFMTA, and upon one hundred and twenty (120) days notice from SFMTA, City may, at City's sole and absolute discretion, reconfigure the Premises by altering the boundaries of Parcel A and/or Parcel B such that the new Parcel A and/or Parcel B contain the same approximate square footage; provided, however, that such modification shall not materially interfere with Licensee's ability to meet its obligations under the Towing Agreement unless such modification is required under the MOU. Before reconfiguring the Premises upon a request from Port, SFMTA shall confer with Licensee to determine the impact of the potential reconfiguration on Licensee's operations. After such conference, SFMTA shall give serious consideration to any request from Licensee that SFMTA ask the Port to modify the proposed reconfiguration, or that SFMTA exercise its right under Section 3(f) of the MOU to reject the proposed reconfiguration. If City modifies the original configuration of the Pier 70 Premises, Licensee shall be solely responsible for relocating vehicles and its other operations to accommodate such a reconfiguration. Licensee shall be entitled to rent credits for half of the costs associated with relocating the fences, gates, lights, driveways, and other improvements pursuant to Section 5.7. City shall not be liable in any manner, and Licensee hereby waives any claims, for any inconvenience, disturbance, loss of business, nuisance or other damage arising out of SFMTA's, Port's, or their designees' entry onto the Premises under this Paragraph, except damage resulting directly and exclusively from the gross negligence or willful misconduct of SFMTA, Port or its designees and not contributed to by the acts, omissions or negligence of Port, SFMTA or their licensees, Contactors or Invitees.

In order for rent credits to be authorized by SFMTA for relocation costs under this Section, Licensee must first obtain written approval from SFMTA that the proposed costs are reasonable and Licensee must obtain all required governmental approvals including, but not limited to Port building permits for the work. After the completion of the work, as evidenced by a certificate of completion or its equivalent by the Port's Chief Harbor Engineer, Licensee must deliver to SFMTA an itemized statement of the actual costs expended, accompanied by documentation substantiating all said expenditures. Such documentation of expenditures shall include: (i) copies of executed contracts; (ii) copies of invoices for labor, services and/or materials, copies of bills of lading, and/or copies of other bills or receipts for goods, materials and/or services; (iii) copies of canceled checks, and (iv) such other proofs of expenditure as may by reasonably requested by SFMTA. Such appropriate proofs of expenditure may include copies of canceled checks; copies of contracts or invoices for labor, services and/or materials marked "Paid", or otherwise evidenced as having been paid bills of lading marked "Paid"; other bills, contracts, receipts for goods materials and/or services marked "Paid" and such other proofs of expenditure as may be reasonably approved by SFMTA. All such proofs of expenditure must be directly attributable to the approved project.

6. On the Effective Date of this First Amendment, Paragraph 2 of the License shall be amended to add a new paragraph 2.1.6 as follows:

2.1.6 Proximity of Development Project. Licensee acknowledges that during the Term, the Pier 70 Development Project is scheduled to be, or may be, constructed on property in the immediate vicinity of the Property. Licensee is aware that the construction of such project and the activities associated with such construction will generate certain adverse impacts which may result in some inconvenience to or disturbance of Licensee. Impacts may include, but are not limited to, increased

vehicle and truck traffic, traffic delays and re-routing, loss of street and public parking, dust, dirt, construction noise and visual obstructions. Licensee hereby waives any and all Claims against Port, City and their Agents arising out of such inconvenience or disturbance.

7. On the Effective Date of this First Amendment, Paragraph 3.1 of the License shall be deleted and restated in its entirety as follows:

3.1 Inspection of Property. Licensee represents and warrants that Licensee has conducted a thorough and diligent inspection and investigation of the Property and the suitability of the Property for Licensee's intended use, either independently or through its officers, directors, employees, agents, affiliates, subsidiaries licensees and contractors, and their respective heirs, legal representatives, successors and assigns, and each of them. Licensee is fully aware of the needs of its operations and has determined, based solely on its own investigation, that the Property is suitable for its operations and intended uses. Licensee acknowledges receipt of the FEMA disclosure notice attached hereto as Attachment 1A.

8. On the Effective Date of this First Amendment, Paragraph 4 of the License shall be deleted and restated in its entirety as follows:

4. TERM, EARLY TERMINATION, HOLDOVER

4.1 Term. The privilege given to Licensee pursuant to this License is temporary only and shall commence upon August 1, 2005, described in the Basic License Information as the Commencement Date (the "Commencement Date"). The term of this License shall run from the Commencement Date through July 31, 2015, or the date of earlier termination of this License pursuant to the terms of this License or the Towing Agreement, whichever date is earlier (the "Expiration Date"). City shall deliver the Premises to Licensee on the Commencement Date in their then-existing as-is condition as further provided above, with no alterations being made by City. Promptly following execution of this License, Licensee shall deliver to City a notice substantially in the form of Attachment 2, but Licensee's failure to do so shall not affect the commencement of the Term.

4.1 Early Termination. Without limiting any of its rights hereunder, City may at its sole option freely terminate this License as to all or a portion of the Premises without cause and without any obligation to pay any consideration to Licensee. In the event that City terminates this License as to a portion of the Premises under this Paragraph, rent will be reduced in proportion to the amount of square footage removed from the Premises and Licensee shall be solely responsible for all costs associated with such modifications or reconfiguration that SFMTA in its sole discretion deems necessary, including all costs incurred to relocate the operations, Premises, fences, gates, lights, driveways, and other improvements; provided, however, that SFMTA shall make good faith efforts to reach an agreement with Licensee regarding the nature and extent of such necessary modifications or reconfiguration.

Licensee may request that SFMTA terminate this License as to all or a portion of the Premises at any time by presenting the SFMTA with a proposal that includes the justification for such early termination. SFMTA shall give serious consideration to the proposal, and shall negotiate in good faith with Licensee to reach agreement regarding the proposal. Should SFMTA, after consideration of Licensee's proposal, determine that termination of all or a portion of the Premises is in SFMTA's best interest, SFMTA shall exercise its right under Section 4(c) of the MOU to terminate the MOU as to all or a portion of the Premises upon twelve (12) months written notice.

4.2 Holdover. The Term of this License may be extended in accordance with Section 4 of the MOU. The definition "Term" shall refer to the total time period during which this License exists as a legally binding agreement between the parties, including any extension period, as defined in the MOU.

9. On the Effective Date of this First Amendment, Paragraph 5.2 of the License shall be deleted and restated in its entirety as follows:

5.2 Adjustments in the Base Fee. The Base Fee shall be adjusted as provided in Section 5(b) of the MOU. The Base Fee for any extension period shall be determined as provided in Section 5(c) of the MOU.

10. On the Effective Date of this First Amendment, Paragraph 5.7.1 of the License shall be deleted and restated in its entirety as follows:

5.7.1 If the Premises ceases to be used for towing operations at any time due to damage sustained during the Term by fire, earthquake, or other casualty rendering the Premises unsuitable for occupancy as determined by the Director of Building Inspection pursuant to the San Francisco Building Code, or are otherwise deemed legally not useable for any reason, in either case for reasons not attributable to Licensee's acts or omissions, Licensee shall be entitled to an abatement in Base Fee to the same extent that SFMTA receives a Rent abatement pursuant to Section 5(d)(1) of the MOU.

11. On the Effective Date of this First Amendment, Paragraph 5.7.2 of the License shall be deleted and restated in its entirety as follows:

5.7.2 Licensee shall be entitled to an abatement in the Base Fee if the City's exercise of any rights reserved in section 13(b) of the MOU result in Licensee's loss of use of the Premises for more than thirty (30) days or in an area greater than 250 square feet, or if Licensee surrenders the possession of Parcel B to the Port for the sole reason that it is unable to obtain a BCDC permit for use of Parcel B consistent with the MOU; provided, however, that if Licensee fails to satisfy the condition of obtaining BCDC approval for use of Parcel B, and surrenders possession of Parcel B to the Port, Licensee shall install and maintain Port approved fencing along the adjusted perimeter of the Premises. The opening of 22nd Street by the Port for non-exclusive, general circulation through the Pier 70 area may occur at the City's sole option without Base Fee abatement.

12. On the Effective Date of this First Amendment, Paragraph 5.7.3 of the License shall be deleted and restated in its entirety as follows:

5.7.3 Upon seventy-five (75) days prior written notice to Licensee, Port may access up to fifteen percent (15%) of the Premises for purposes related to the development of Pier 70 by Port. Licensee will cooperate to ensure that Port or its licensees, Contactors or Invitees have adequate access to the designated area(s) and Licensee shall be solely responsible for costs incurred by Licensee to relocate vehicles or its other operations to accommodate Port's access. Licensee shall be entitled to rent credits pursuant to Section 5.7.2 or third-party reimbursement arranged by Port for all costs incurred by Licensee to relocate fences, gates, lights, driveways, and other improvements. SFMTA may not require Licensee to incur relocation costs that are eligible for rent credits under this section if One Hundred Fifty percent (150%) of the total value of all rent credits claimed under this MOU exceeds the total rent due for the Term. Notwithstanding the time and square footage limitations of Paragraph 5.7.2, if the rights exercised by Port hereunder result in the loss of use of the designated area(s) of the Premises, Licensee shall be entitled to a proportional abatement in Rent. SFMTA shall not be liable in any manner, and Licensee hereby waive any claims, for any inconvenience, disturbance, loss of business, nuisance or other damage arising out of SFMTA's or Port's or its designees' entry onto the Premises under this Paragraph, except damage resulting directly and exclusively from the gross negligence or willful misconduct of City or its designees and not contributed to by the acts, omissions or negligence of City or its licensees, Contactors or Invitees.

In order for rent credits or third party reimbursement to be authorized by SFMTA for relocation costs under this section, Licensee must first obtain written approval from Port that the proposed costs are reasonable and MTA or its licensee must obtain all required governmental approvals including, but not limited to Port building permits for the work. After the completion of the work, as evidenced by a certificate of completion or its equivalent by the Port's Chief Harbor Engineer, Licensee must deliver to SFMTA an itemized statement of the actual costs expended, accompanied by documentation substantiating all said expenditures. Such documentation of expenditures shall include: (i) copies of executed contracts; (ii) copies of invoices for labor, services and/or materials, copies of bills of lading, and/or copies of other bills or receipts for goods, materials and/or services; (iii) copies of canceled checks, and (iv) such other proofs of expenditure as may be reasonably requested by SFMTA. Such appropriate proofs of expenditure may include copies of canceled checks; copies of contracts or invoices for labor, services and/or materials marked "Paid" or otherwise evidenced as having been paid; bills of lading

marked "Paid"; other bills, contracts, receipts for goods materials and/or services marked "Paid"; and such other proofs of expenditure as may be reasonably approved by SFMTA. All such proofs of expenditure must be directly attributable to the approved project.

13. On the Effective Date of this First Amendment, Paragraph 6.7 of the License shall be deleted and restated in its entirety as follows:

6.7 Additional Charges. Without limiting City's other rights and remedies set forth in this License, if Licensee violates any of the following provisions governing its use of the Premises contained in this License or the Towing Agreement, SFMTA may impose a charge of $300 per day during which Licensee is in violation of any of the specified provisions: License sections 2, 6, 7, 8, 11, 19, 22, 24; Towing Agreement section 12.2. SFMTA may also impose this fine for Licensee's failure to submit any documents, reports or other items as and when required by any provision of this License.

The additional charges described in this Section 6.7 shall run from the date of City's notice to Licensee of the violation and shall continue until the violation is cured. All such accrued amounts under this Section shall be payable to City monthly in arrears at the same time, place and manner as the Base Fee is payable unless otherwise specified herein. City shall have the same remedies for a default in the payment of any such amounts as for a default in the payment of Base Fee. The parties agree that the charges described above represent a fair and reasonable estimate of the administrative cost and expense which City will incur due to such violations by reason of its inspections, issuance of charges and other costs.

If SFMTA notifies Licensee of the imposition of a charge under this Section based upon a notice of violation that was initiated by the Port and communicated to SFMTA, Licensee may appeal such charge to the Port Director within fourteen (14) days of the notice with evidence supporting Licensee's claim for relief from the charge imposed. The Port Director will respond within fourteen (14) days. Any failure of the Port Director to respond within the fourteen (14) day period shall be deemed a rejection of Licensee's claim for relief from the charges. f SFMTA initiates notice of a charge under this Section, Licensee may appeal such charge to the Executive Director of SFMTA within fourteen (14) days of the notice with evidence supporting Licensee's claim for relief from the charge imposed. The Executive Director of SFMTA will respond within fourteen (14) days. Any failure of the Director of SFMTA to respond within the fourteen (14) day period shall be deemed a rejection of Licensee's claim for relief from the charges imposed. The provisions of Section 46 of the Towing Agreement shall not apply to charges imposed under this Section.

City's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights under this License or at law or in equity; provided, however, that City agrees that once it has declared an "Event of Default" pursuant to Section 17 of this License, it will no longer impose any new charges with respect to such default. City shall have no obligation to Licensee to impose charges on or otherwise take action against any other person.

14. On the Effective Date of this First Amendment, Paragraph 7.1 of the License shall be deleted and restated in its entirety as follows, subparagraphs 7.1.1, 7.1.2 and 7.1.3 shall remain unchanged:

7.1 Licensee's Alterations. Licensee shall not make, nor cause or suffer to be made, any alterations, installations, improvements, or additions to any improvements or to the Property (including demolition or removal), installations, additions or improvements to the Property, including but not limited to the installation of any appurtenances or trade fixtures affixed to the Property, constructed by or on behalf of Licensee pursuant to the Towing Agreement, or any trailers, signs, roads, trails, driveways, parking areas, curbs, walks fences walls, stairs, poles, plantings or landscaping, (collectively, "Improvements" or Alterations," which words are interchangeable as used in this License) without first obtaining SFMTA's written approval and then obtaining a permit therefor from the San Francisco Port Commission's Engineering Department pursuant to the Port Building Code, with respect to the Property, and any other permits or approvals as the Chief Harbor Engineer of the San Francisco Port Commission deems necessary, with respect to the Property; and any required approvals of regulatory agencies having

jurisdiction over the Property. All Alterations shall be done at Licensee's expense in accordance with plans and specifications approved by City, only by duly licensed and bonded contractors or mechanics approved by City, and subject to any conditions that City may reasonably impose. City may require Licensee, at Licensee's expense, to obtain the prior written approval of City's Arts Commission with respect to any Alterations, to the extent the Arts Commission has jurisdiction over the design of such proposed alterations under City's Charter Section 5.103. Licensee shall pay to Port any applicable permit fees for such Alterations in accordance with standard permit fees generally charged to Port tenants, as adopted by the Port Commission. All Alterations shall be subject to the following conditions:

15. On the Effective Date of this First Amendment, Paragraph 7.2 of the License shall be deleted and restated in its entirety as follows:

7.2 Title to Improvements. Except for Licensee's Personal Property (as described in Section 7.3), or as may be specifically provided to the contrary in approved plans, all Alterations, equipment, or other property attached or affixed to or installed in the Premises at the Commencement Date or, by Licensee with the advance approval of City during the Term, shall, at City's sole discretion, remain City's property without compensation to Licensee or be removed at the termination of this License. Licensee may not remove any such Alterations at any time during or after the Term unless City so requests pursuant to Section 23 [Surrender of Premises], below.

16. On the Effective Date of this First Amendment, Paragraph 14.5 of the License shall be deleted and restated in its entirety as follows:

14.5 Licensee Waiver. City and Licensee intend that the provisions of this Section govern fully in the event of any damage or destruction and accordingly, City and Licensee each hereby waives the provisions of Section 1932, subdivision 2, and Section 1933, subdivision 4, of the Civil Code of California or under any similar law, statute or ordinance now or hereafter in effect, to the extent such provisions apply.

17. On the Effective Date of this First Amendment, Paragraph 18.2 of the License shall be deleted and restated in its entirety as follows:

18.2 Licensee's Indemnity. Except as provided for in Sections 24.3 and 24.8, below, Licensee, on behalf of itself and its successors and assigns, shall indemnify, defend and hold harmless ("Indemnify") the City and County of San Francisco including, but not limited to, all of its boards; commissions, departments, agencies and other subdivisions, and all of its and their Agents, and their respective heirs, legal representatives, successors and assigns (individually and collectively, the "Indemnified Parties"), and each of them, from and against any and all liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties and expenses, including, without limitation, direct and vicarious liability of every kind (collectively, "Claims"), incurred in connection with or arising in whole or in part from: (a) any accident, injury to or death of a person, including, without limitation, employees of Licensee, or loss of or damage to property, howsoever or by whomsoever caused, occurring in or about the Property or on Port streets or other Port property adjacent to the Property; (b) any default by Licensee in the observation or performance of any of the terms, covenants or conditions of this License to be observed or performed on Licensee's part; (c) the use or occupancy or manner of use or occupancy of the Premises by Licensee, its Agents or Invitees or any person or entity claiming through or under any of them; (d) the condition of the Premises; (e) any construction or other work undertaken by Licensee on the Premises whether before or during the Term of this License; or (f) any acts, omissions or negligence of Licensee, its Agents or Invitees, in, on or about the Premises, the Property, or on Port streets or other Port property adjacent to the Property, all regardless of the active or passive negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on, the Indemnified Parties, except to the extent that such Indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this License and further except only such Claims as are caused exclusively by the willful misconduct or gross negligence of the Indemnified Parties. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any Claim. Licensee specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City from any claim which actually or

potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Licensee by City and continues at all times thereafter. Licensee's obligations under this Section shall survive the termination of the License.

Licensee's indemnity under this Section 18.2 relating to "Port streets or other Port property adjacent to the Property" and for claims not expressly limited to occurring at the Premises as set forth in this Section 18.2 applies only to the extent that such claims arise directly or indirectly out of Licensee's, its Agent's or Invitee's acts, omissions or negligence relating to this License or the Premises.

18. On the Effective Date of this First Amendment, Paragraph 24.3 of the License shall be deleted and restated in its entirety as follows:

24.3 Licensee's Environmental Indemnity. If Licensee breaches any of its obligations contained in this Section 24, or, if any act, omission or negligence of Licensee, its Agents, Employees or Invitees, results in any Release of Hazardous Material in, on or under any part of the Buildings, the Premises, or Port streets or Port property adjacent to the Property , then, Licensee shall, on behalf of itself and its successors and assigns, Indemnify the City from and against all Claims (including, without limitation, claims for injury to or death of a person, damages, liabilities, losses, judgments, penalties, fines, regulatory or administrative actions, damages for decrease in value of the Buildings, Premises, or Port streets or other Port property adjacent to the Property, the loss or restriction of the use of rentable or usable space or of any amenity of the Buildings, Premises, or Port streets or other Port property adjacent to the Property, damages arising from any adverse impact on marketing of any such space, restoration work requested by Port or required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or groundwater in, on or under the Premises or Port streets or other Port property adjacent to the Property or in any Improvements, and sums paid in settlement of claims, attorneys' fees, consultants' fees and experts' fees and costs) arising during or after the Term of the Towing Agreement and relating to such breach or Release. The foregoing Indemnity includes, without limitation, costs incurred in connection with activities undertaken to Investigate and Remediate any Release of Hazardous Material, and to restore the Buildings, Premises or Port streets or other Port property adjacent to the Property to their prior condition. This indemnification of Port and City by Licensee includes, but is not limited to, costs incurred in connection with any investigation of site conditions or any clean-up, remediation, removal or restoration work requested by Port or required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or groundwater in, on or under the Premises or Port streets or other Port property adjacent to the Property or in any Alterations. Licensee's obligations hereunder shall survive the termination of the Towing Agreement. Licensee's obligations under this section do not include an indemnity for Claims arising as a result of Hazardous Materials (or other conditions alleged to be in violation of any Environmental Law) in, on, or under any part of the Buildings, Premises or Port streets or other Port property adjacent to the Property that were present on March 22, 2004, to the extent that such Claims relate to conditions existing prior to March 22, 2004, and except to the extent that Licensee exacerbates any pre-existing condition. In the event any action or proceeding is brought against City by reason of a claim arising out of any Loss, Claim, injury or damage suffered on or about the Buildings, Premises or Port streets or other Port property adjacent to the Property for which Licensee has Indemnified the City and upon written notice from the City, Licensee shall at its sole expense answer and otherwise defend such action or proceeding using counsel approved in writing by the City. The City shall have the right, exercised in its sole discretion, but without being required to do so, to defend, adjust, settle or compromise any claim, obligation, debt, demand, suit or judgment against the City in connection with this License or the Buildings, Premises or Port streets or other Port property adjacent to the Property. In the event any action or proceeding is brought against Licensee by reason of a Claim arising out of any Loss, injury or damage suffered on or about the Buildings, Premises or Port streets or other Port property adjacent to the Property for which the City has Indemnified Licensee, and upon written notice from Licensee, City shall at its sole expense answer and otherwise defend such action or proceeding. The Licensee shall have the right, exercised in its sole discretion, but without being required to do so, to defend, adjust, settle or compromise any claim, obligation, debt demand, suit of judgment against the

Licensee in connection with this Agreement or the Buildings, Premises or Port streets or other Port property adjacent to the Property. The provisions of this paragraph shall survive the termination of this Agreement with respect to any Loss occurring prior to or upon termination. Licensee and City shall afford each other a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, or other compromise or proceeding involving Hazardous Material.

Licensee's indemnity for Release of Hazardous Material under this Section 24.3 relating to "Port streets or other Port property adjacent to the Property" and for claims not expressly limited to occurring at the Premises as set forth in this Section 24.3 applies only to the extent that such claims arise directly or indirectly out of Licensee's, its Agent's or Invitee's acts, omissions or negligence relating to this License or the Premises.

19. On the Effective Date of this First Amendment, Paragraph 24.9.3 of the License shall be deleted and restated in its entirety as follows:

24.9.3 Notification of Regulatory Actions.

(a) Licensee shall immediately notify City in writing of any inspection by any governmental or regulatory agency with jurisdiction over Hazardous Materials and shall provide City with a copy of any inspection record, correspondence, reports and related materials from or to the agency.

(b) Licensee must notify City of any meeting, whether conducted face-to-face or telephonically, between Licensee and any regulatory agency regarding an environmental regulatory action. Port will be entitled to participate in any such meetings at its sole election.

(c) Licensee must notify City of any environmental regulatory agency's issuance of an environmental regulatory approval. Licensee's notice to City must state the issuing entity, the environmental regulatory approval identification number, and the date of issuance and expiration of the environmental regulatory approval. In addition, Licensee must provide City with a list of any environmental regulatory approval, plan or procedure required to be prepared and/or filed with any regulatory agency for operations on the Property, including a "Spill Pollution Control and Countermeasure Plan." Licensee must provide City with copies of any of the documents within the scope of this Section upon City's request.

(d) Licensee must provide City with copies of all communications with regulatory agencies and all non-privileged communications with other persons regarding potential or actual Hazardous Materials Claims arising from Licensee's or its Agents' or Invitees' operations at the Property. Upon City's request, Licensee must provide City with a log of all communications withheld under a claim of privilege that specifies the parties to and subject of each withheld communication.

(e) City may from time to time request, and Licensee will be obligated to provide, information reasonably adequate for City to determine that any and all Hazardous Materials are being handled in a manner that complies with all Environmental Laws.

20. On the Effective Date of this First Amendment, Paragraph 25.12 of the License shall be deleted in its entirety.

21. On the Effective Date of this First Amendment, Paragraph 25.34 of the License shall be deleted in its entirety and replaced with the following:

25.34 Sales and Advertising Prohibitions

25.34.1 Tobacco Sales and Advertising. Licensee acknowledges and agrees that no sales or advertising of cigarettes or tobacco products is allowed on the Property. This advertising 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 advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of cigarettes and tobacco products, or (ii) encourage people not to smoke or to stop smoking.

25.34.2 Alcoholic Beverages Advertising. Licensee acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Property. For purposes of this section, "alcoholic beverage" shall be defined as set forth in California Business and Professions Code Section 23004, and shall 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 (i) communicate the health hazards of alcoholic beverages, (ii) encourage people not to drink alcohol or to stop drinking alcohol, or (iii) provide or publicize drug or alcohol treatment or rehabilitation services.

22. On the Effective Date of this First Amendment, Paragraph 25.36 of the License shall be deleted in its entirely and replaced with the following:

25.36 Notification of Limitations on Contributions. Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, 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 the board of a state agency 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. Contractor 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. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Contractor further agrees to provide to City the names of each person, entity or committee described above.

23. On the Effective Date of this First Amendment, Paragraph 25 of the License shall be amended by adding subparagraphs 25.41, 25.42, 25.43, and 25.44 as follows:

25.41 Graffiti Removal. 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 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 its residents, and to prevent the further spread of graffiti.

Licensee agrees to remove all graffiti from any real property owned or leased by Licensee in the City within forty-eight (48) hours of the earlier of Licensee'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 Licensee 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 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 that is visible from the public right-of-way, but does not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the Public Works Code, the Planning Code, or the 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 (Calif. Civil Code §§ 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.).

25.42 Drug-Free Workplace. Licensee acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1988 (41 U.S.C §§ 701 et seq.), the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City or Port premises.

25.43 Food Service Waste Reduction Ordinance. Licensee agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. By entering into this License, Licensee agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Licensee agrees that the sum of one hundred dollars ($100.00) liquidated damages for the first breach, two hundred dollars ($200.00) liquidated damages for the second breach in the same year, and five hundred dollars ($500.00) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this License was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Licensee's failure to comply with this provision..

25.44 Resource-Efficient Facilities and Green Building Requirements. Licensee agrees to comply with all applicable provisions of Environment Code Chapters 7 and 13C relating to resource-efficiency and green building design requirements.

24. On the Effective Date of this First Amendment, Paragraph 265 of the License shall be added, as follows:

26. SOUTHERN WATERFRONT COMMUNITY BENEFITS AND BEAUTIFICATION POLICY.

The Port's "Policy for Southern Waterfront Community Benefits and Beautification" identifies beautification and related projects in the Southern Waterfront (from Mariposa Street in the north to India Basin) that require funding. Under this policy, Licensee shall provide the following community benefits and beautification measures in consideration for the use of the Premises. All improvements must be performed in accordance with Paragraph 7 of this License.

26.1 Not sooner than Eighteen (18) months after the Effective Date of this First Amendment and not later than Twenty Four (24) months after the Effective Date of this First Amendment unless otherwise approved by SFMTA, Licensee shall expend not less than Fifty Thousand Dollars ($50,000) to design, produce and install signs and other interpretive devices describing the historic significance of the Port's Pier 70 site. The form, content and placement of such signs and other devices are subject to Port's consent in its sole discretion.

26.2 Licensee shall perform repairs as specified by Port to Building 12 Complex with costs not to exceed Four Hundred Fifty Thousand dollars ($450,000.00). SFMTA shall not require repairs to be conducted at the same time that Port implements an extension of 22nd Street under Paragraph 5(d)(4) of the MOU. In consideration for completion of the repairs and expenditures related thereto, and upon

approval by SFMTA of Construction Costs, SFMTA shall issue an appropriate rent credit (herein "Building 12 Complex Repair Rent Credit") to Licensee in accordance with the terms of this Paragraph. "Construction Costs" are the actual costs incurred for labor, materials, contractor fees, and reasonable architecture and engineering fees in connection with the project pursuant to a bid obtained under a guaranteed not-to-exceed construction bid that is approved by the SFMTA prior to issuance. The Building 12 Complex Repair Rent Credit shall be a sum equal to the Construction Costs or a sum not to exceed Four Hundred Fifty Thousand dollars ($450,000.00), whichever is the lesser amount. The timing, scope and specification of the repairs shall be in the SFMTA's sole discretion except that SFMTA may not require Building 12 Complex repairs if the remaining rent owed by Licensee for the Term minus rent credits owed to Licensee pursuant to Paragraph 3(f) and Paragraph 5.7.3 is less than One Hundred Fifty percent (150%) of the guaranteed not-to-exceed construction bid.

All rent credits available to Licensee under this Paragraph shall be applied against Rent during the Term at a rate of 100% of the applicable month Rent payment and shall be applied if and only if Licensee is in good standing and is not in default of any of the terms of this License. In the event that the total of rent credits available to Licensee pursuant to this Paragraph exceeds an amount equal to 100% of the Rent payment for any one calendar month, the remaining available Rent Credit shall be carried forward to successive calendar months at a rate not to exceed 100% of the applicable Rent payment, until all available rent credits have been fully applied. In no event, however, shall Licensee be entitled to the application of any rent credits or the value thereof, beyond the expiration or earlier termination of this License.

In order for construction of the project to be authorized by SFMTA, Licensee must first obtain, prior to commencing the project, written approval from SFMTA that the Construction Costs of the proposed project are reasonable; and Licensee, must obtain all required governmental approvals, including, but not limited to building permits from the Port. After the completion of the approved project as evidenced by a certificate of completion or its equivalent by the Port's Chief Harbor Engineer, Licensee must deliver to SFMTA an itemized statement of the actual Construction Costs expended on the approved project, accompanied by documentation substantiating all said expenditures. Such documentation of expenditures shall include: (i) copies of executed contracts; (ii) copies of invoices for labor, services and/or materials, copies of bills of lading, and/or copies of other bills or receipts for goods, materials and/or services; (iii) copies of canceled checks, and (iv) such other proofs of expenditure as may be reasonably requested by Port. Such appropriate proofs of expenditure may include copies of canceled checks; copies of contracts or invoices for labor, services and/or materials marked "Paid", or otherwise evidenced as having been paid; bills of lading marked "Paid"; other bills, contracts, receipts for goods materials and/or services marked "Paid"; and such other proofs of expenditure as may be reasonably approved by Port. All such proofs of expenditure must be directly attributable to the approved project

25. On the Effective Date of this First Amendment, Attachments 3 and 4 to the License are deleted and replaced with the Attachments 3 and 4 that are appended to this First Amendment.

26. Entire Agreement. This First Amendment contains all of the representations and the entire agreement between the parties with respect to the subject matter of this agreement.

27. As amended hereby, the License is hereby ratified and confirmed in all respect and shall remain in full force and effect. In the event of any inconsistencies between the terms of this First Amendment and the License, the terms of this First Amendment shall prevail. Neither this First Amendment nor any of the terms hereof may be amended or modified except by a written instrument signed by all the parties hereto.

28. Effective Date. The Effective Date of the First Amendment is July 31, 2010.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment on the day first mentioned above.

LICENSOR

Nathaniel P. Ford, Senior
Executive Director/CEO
Municipal Transportation Agency

Municipal Transportation Agency
Board of Directors
Resolution No. 10-080
Adopted: 6/1/10
Attest: R. Boomer
Roberta Boomer
Secretary, MTA Board

LICENSEE

JOHN WICKER
President and CEO
TEGSCO, LLC,
d.b.a. San Francisco AutoReturn
450 7th Street
San Francisco, CA 94103
Phone No.: 415-626-3380
Federal Employer ID No.: 01-0688299

Approved as to Form:
Dennis J. Herrera
City Attorney

By: Mariam Morley
Mariam Morley
Deputy City Attorney

ATTACHMENT 1A

FEMA Disclosure Notice

The Federal Emergency Management Agency ("**FEMA**") is revising Flood Insurance Rate Maps ("**FIRMs**") for San Francisco Bay Area communities. As part of this effort, FEMA plans to prepare a FIRM for the City and County of San Francisco for the first time. That process may have significant impacts for developing new buildings and reconstructing or repairing existing buildings on certain parts of the San Francisco waterfront.

FIRMs identify areas that are subject to inundation during a flood having a 1% chance of occurrence in a given year (also known as a "base flood" or "100-year flood"). FEMA refers to the flood plain that is at risk from a flood of this magnitude as a special flood hazard area ("**SFHA**").

Because FEMA has not previously published a FIRM for the City and County of San Francisco, there are no identified SFHAs within San Francisco's geographic boundaries. FEMA has completed the initial phases of a study of the San Francisco Bay. On September 21, 2007, FEMA issued a preliminary FIRM of San Francisco for review and comment by City. FEMA has tentatively identified SFHAs along City's shoreline in and along the San Francisco Bay consisting of "A zones" (areas subject to inundation by tidal surge) and "V zones" (areas subject to the additional hazards that accompany wave action). These zones generally affect City property under the jurisdiction of the City of San Francisco and other areas of the San Francisco waterfront, including parts of Mission Bay, Hunters Point Shipyard, Candlestick Point, Treasure and Yerba Buena Islands and an area adjacent to Islais Creek. City has submitted comments on the preliminary FIRM to FEMA.

FEMA prepares the FIRMs to support the National Flood Insurance Program ("**NFIP**"), a federal program that enables property owners, businesses, and residents in participating communities to purchase flood insurance backed by the federal government. Participation in the NFIP is based on an agreement between the local government and the federal government that requires the local government to adopt and enforce a floodplain management ordinance to reduce future flood risks. As part of the floodplain management ordinance, the local jurisdiction must impose significant restrictions on construction of new or substantially improved structures located in SFHAs and ban construction of certain new structures seaward of the mean high tide line, unless appropriate variances can be granted. Federally backed lenders must require the purchase of flood insurance for residential and commercial structures located in SFHAs. Otherwise, purchase of flood insurance is voluntary.

In August 2008, the San Francisco Board of Supervisors adopted Ordinance No. 188-08, a floodplain management ordinance governing new construction and substantial improvements in flood prone areas of San Francisco and authorizing the City's participation in NFIP. In accordance with the ordinance, the City Administrator's Office has issued maps of flood prone areas. Specifically, the ordinance requires that any new construction or substantial improvement of structures in city-designated flood zones be constructed in accordance with specified requirements intended to minimize or eliminate flood hazard risks. NFIP regulations allow a local jurisdiction to issue variances to its floodplain management ordinance under certain narrow circumstances, without jeopardizing the local jurisdiction's eligibility in the NFIP. However, the particular projects that are granted variances by the local jurisdiction may be deemed ineligible for federally-backed flood insurance by FEMA.

Additional information on this matter can be found on FEMA's website at the following links:
http://www.fema.gov/plan/prevent/fhm/index.shtm
http://www.fema.gov/business/nfip/index.shtm

The legislation and regulations implementing the NFIP are located at 42 U.S.C. §§ 4001 et seq.; 44 C.F.R. Parts 59-78, §§ 59.1-78.14.

In addition, FEMA publishes "Answers to Questions About the NFIP" and FEMA Publication 186 entitled "Mandatory Purchase of Flood Insurance Guidelines."

Additional information about the San Francisco legislation can be found on the city's website (http://www.sfgov.org), File Nos. 080823 (floodplain management ordinance) and 080824 (NFIP participation resolution).

Attachment 3

PORT CONSENT

The undersigned, on behalf of Port of San Francisco, consents to the foregoing License; provided, however, that nothing contained herein shall be deemed to impose any additional obligations or liabilities upon Port other than as is already set forth in the Memorandum of Understanding Between SFMTA and Port .

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the **SAN FRANCISCO PORT COMMISSION**

By: Monique Moyer
Monique Moyer, Executive Director

Date signed: 05-27-11

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ATTACHMENT 4

Environmental Reports and Documents Regarding Hazardous Materials

SF MTA / AutoReturn

Updated July 31, 2010

CITY AND COUNTY OF SAN FRANCISCO

GAVIN NEWSOM, MAYOR

MEMORANDUM OF UNDERSTANDING
PORT REF. NO. MOU M-13828

BY AND BETWEEN

THE SAN FRANCISCO PORT COMMISSION

AND

THE
SAN FRANCISCO
DEPARTMENT OF PARKING AND TRAFFIC,
A DIVISION OF THE
MUNICIPAL TRANSPORTATION AGENCY

PORT OF SAN FRANCISCO

Monique Moyer
Executive Director

PORT COMMISSION

Wilfred W. Hsu, President
Michael Hardeman, Vice President
Susan J. Bierman
Kimberly K. Brandon
Ann Lazarus

SAN FRANCISCO MUNICIPAL
TRANSPORTATION AGENCY

Michael T. Burns
Director of Transportation

BOARD OF DIRECTORS

Cleopatra Vaughns, Chairman
Michael Kasolas, Vice-Chairman
Shirley Breyer Black
Wil Din
Rev. Dr. James McCray, Jr.
Peter Mezey

MEMORANDUM OF UNDERSTANDING
PORT REF. NO. MOU M-13828

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is entered into by and between the Department of Parking and Traffic ("DPT"), a division of the Municipal Transportation Agency, an agency of the City and County of San Francisco ("MTA")and the San Francisco Port Commission, an agency of the City and County of San Francisco ("Port").

RECITALS

A. Pursuant to an MOU dated June 1, 1994, as amended March 7, 1996 ("1994 MOU"), Port leased to DPT approximately 13.66 acres of property for the purpose of storing and handling abandoned automobiles, and related uses. The 1994 MOU replaced an earlier 1987 license between the Port and the San Francisco Police Commission for a similar use at the same location.

B. The initial term of the 1994 MOU expired on May 31, 1999, after which date the 1994 MOU has continued on a month-to-month basis in accordance with its terms. The 1994 MOU premises are presently being used by TEGSCO, LLC, a California limited liability company, dba San Francisco AutoReturn ("AutoReturn") for its automobile towing, storage and lien sale operations pursuant to an Emergency Interim Service Agreement and Property Use License for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles between DPT and AutoReturn ("Emergency Interim Agreement"), approved by the Board of Supervisors by Resolution No. 423-04 on July 13, 2004, File No. 040638.

C. DPT is currently negotiating a long term towing services agreement ("Towing Agreement") pursuant to which DPT anticipates licensing the Port property shown in Exhibit A to this MOU ("License") to the long term towing services provider ("Licensee") and the Licensee is expected to continue use of the real property described herein for the purpose of automobile towing and storage and to conduct weekly public lien sales or auctions, subject to all of the applicable terms and conditions of this MOU, the Towing Agreement and License.

D. Under the Charter of San Francisco, the administration and control of real property transferred to the City of San Francisco by the State of California pursuant to the legislative trust grant, commonly referred to as the Burton Act (Chapter 1333 of Statutes of 1968), as amended including the area encompassing the real property which is the subject of this MOU, is vested in the Port.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

AGREEMENT

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

2. Termination of 1994 MOU/Effective Date. The Port and DPT hereby mutually agree that the 1994 MOU will be terminated on the Effective Date of the Towing Agreement as defined therein, which date shall be the effective date ("Effective Date") of this MOU. The 1994 MOU contained the following acknowledgment: "Because the rental fees due hereunder are not intended to cover risks associated with DPT's use of the Premises and because of certain funding restrictions imposed on Port funds due to public trust restraints, it is the understanding of the parties that Port shall not expend any funds due to or in connection with DPT's, or its contractor's, use of the Premises." Accordingly, DPT agreed to hold the Port harmless from claims, damages, liabilities or losses as specified in Section 12 of the 1994 MOU, and Section 12 further provided that: "The foregoing obligation of DPT shall survive termination of this agreement." Therefore, the parties hereto recognize that DPT's obligations under Section 12 of the 1994 MOU survive the termination of the 1994 MOU.

3. Premises/Condition.

a. Parcel A. For the Rent and subject to the terms and conditions of this MOU, Port hereby authorizes DPT to use the area located at Pier 70 and SWL 349 in the City and County of San Francisco, California, shown outlined and marked Parcel A on Exhibit A, attached hereto and made a part hereof, including approximately 406,810 square feet of paved land and 112,518 square feet of shed space contained in 5 buildings that are as shown on Exhibit A, and 3,967.8 square feet of Unusable Area as shown on Exhibit A and reserving a non-exclusive right of way in the general area shown on Exhibit A as Reserved 22nd Street Extension, an area extending from the east end of 22nd Street through Parcel A and connecting with the east end of 20th Street, together with any improvements located thereon (the "Parcel A Premises").

b. Parcel B. For the Rent and subject to the terms and conditions of this MOU, including but not limited to the obligation to obtain a permit from the San Francisco Bay Conservation and Development Commission ("BCDC") for the uses contemplated under this MOU, Port hereby authorizes DPT to use the area located at Pier 70 and SWL 349 in the City and County of San Francisco, California, shown outlined and marked Parcel B on Exhibit A attached hereto, including approximately 17,241 square feet of paved land (the "Parcel B Premises").

c. Definition of Premises. The Parcel A Premises and the Parcel B Premises are hereinafter collectively referred to as the "Premises."

d. Condition. DPT hereby acknowledges that hazardous substances may exist on the Premises, and that it will be responsible for notifying its Licensee as required by Health and Safety Code Section 25359.7. DPT further acknowledges that DPT has permitted, and will permit its Licensees to use the Premises for the purposes authorized herein. DPT agrees that the Port shall have no responsibility for: (i) terminating Licensee's use of the Premises, (ii) removing Licensee's possessions, (iii) removing Licensee's vehicles and (iv) removing other materials (including Hazardous Materials if any) put on the Premises by Licensee(s).

e. Requirement to Fence. DPT shall have the affirmative obligation to install and maintain Port-approved fencing along the perimeter of the Premises. Port agrees that the existing perimeter fencing meets its requirements; provided, however, that if DPT fails to satisfy the condition of obtaining BCDC approval for use of Parcel B, and surrenders possession of Parcel B to the Port, DPT shall install and maintain Port approved fencing along the adjusted perimeter of the Premises. The installation cost of the fencing needed as a result of the Port extending 22nd Street through the Premises shall be the responsibility of the Port.

4. Term. DPT will use the Premises from the Effective Date through a date five (5) years from the Effective Date ("Expiration Date"), but not later than September 1, 2010. DPT shall have the right to terminate the MOU at any time during the Term of the MOU provided that DPT also terminates the License, upon providing to the Port one hundred eighty (180) days prior written notice. On a date no sooner than three (3) years and no later than two (2) years prior to the Expiration Date DPT shall send written notice to the Port Executive Director stating whether DPT intends to extend the MOU beyond the Expiration Date and requesting a meeting between DPT and the Port to discuss the parties' plans for the Premises. In the event that DPT wishes to extend this MOU beyond the Expiration Date, it shall so notify Port in writing at least one hundred eighty (180) days prior to the Expiration Date, and thereupon DPT's use of the Premises shall continue on all of the terms and conditions stated herein, except for Rent which shall be governed by Section 5(c), unless the Port has notified DPT one hundred eighty (180) days prior to the Expiration Date in writing that the MOU may not be extended. If the MOU is extended as provided above beyond the Expiration Date, either party hereto may terminate the MOU upon providing to the other party one hundred eighty (180) days prior written notice. In no event shall any hold over period extend beyond March 1, 2012. The definition "Term" shall refer to the total time period during which this MOU exists as a legally binding agreement between the parties, including all month-to-month extensions.

5. Rental Payments.

a. Rent. DPT will cause to be paid a monthly rental fee of $118,830.00 (one hundred eighteen thousand eight hundred thirty dollars) for Parcel A and $2,850 (two thousand eight hundred fifty dollars) for Parcel B ("Rent") to Port in lawful money of the United States of America at Port's address for notices, as set forth herein, on or before the 1st of the month for which the Rent is due, without prior demand and without any deduction, setoff or counterclaim whatsoever, except as such deduction or setoff is specifically provided for in Section 5(d) [Rent Abatement and Credits]. Use of the Premises for any partial month will be prorated at the rate of one-thirtieth (1/30) of the monthly charge.

If DPT fails to pay Rent or any portion of Rent within ten (10) days following the due date, such unpaid amount shall be subject to a late payment charge (the "Late Charge") equal to one and one-half percent (1½%) of all undisputed amounts which remain unpaid, and/or one and one-half percent (1½%) of all undisputed amounts which are more than five (5) business days late. Such Late Charge may be assessed without notice and cure periods. The Late Charge shall start accruing as of the original due date of the owed amount notwithstanding the five (5) calendar day grace period provided herein.

b. Rent Adjustment. Commencing on the Effective Date of this MOU and on each anniversary date (the "Anniversary Date") thereafter, the Rent shall be adjusted on the first day of the month that immediately follows the Effective Date and on that same date in each succeeding year in direct proportion to the percentage increase in the Current CPI Index for the month immediately preceding the applicable Anniversary Date ("Current Index") over the CPI index for the month of June, 2004 ("Base Index"). In no case shall the Rent, as adjusted, be less than the Rent in effect immediately prior to the Anniversary Date. If the Current Index has increased over the Base Index, the adjusted Base Rent shall be determined by multiplying the Base Rent by a fraction, the numerator of which is the Current Index and the denominator of which is the Base Index, as follows:

$$\frac{\text{Current Index}}{\text{Base Index}} \times \text{Base Rent} = \text{Adjusted Base Rent}$$

c. Extension Period Rent. Should DPT hold over beyond the Expiration Date specified in Section 4 of this MOU, Rent shall be increased to an amount equal to one hundred twenty percent (120%) of the Rent payable by DPT on the last calendar month of the initial five-year term on a month-to-month basis until such time as the parties renegotiate the Rent payments for any additional term, or the MOU terminates. The Extension Period Rent shall be subject to further Rent Adjustment per Section 5(b) of this MOU.

d. Rent Abatement and Credits.

1. If the Premises cease to be used for towing operations at any time due to damage sustained during the Term by fire, earthquake, or other casualty rendering the Premises unsuitable for occupancy, as determined by the Director of Building Inspection pursuant to the San Francisco Building Code, or are otherwise deemed legally not useable for any reason, Rent hereunder shall be abated and DPT shall have the option to terminate the MOU and shall be entitled to a prorated refund of any Rent or deposits paid. In the event the Premises ceases to be used for more than two (2) consecutive months for towing operations, Port, at its option, may terminate this MOU.

2. DPT shall be entitled to a proportional abatement in the Rent if the exercise of any rights reserved to the Port in this MOU, results in the loss of use of the Premises or any portion thereof for a period in excess of thirty (30) days or in an area in excess of 250 square feet, or if DPT surrenders the possession of Parcel B to the Port for the sole reason that it is unable to obtain a BCDC permit for use of Parcel B consistent with this MOU. The opening of 22nd Street by the Port for non-exclusive, general circulation through the Pier 70 area may occur at the Port's sole option without

Rent abatement. The planned alignment for the 22nd Street Extension is as shown on Department of Parking and Traffic, Division of Traffic Engineering drawing on file with the Port's Chief Harbor Engineer, entitled "New Pier 70 Roadway – Preliminary Striping Plan", dated June 28, 2001, File Name swl349sv newroad final.dwg. The parties recognize that the final alignment may deviate as necessary to effect the right of way improvement.

3. In the event Port requires the modification of the original configuration of the Premises, any reasonable and actual costs incurred by Licensee to relocate the Premises, fences, gates, lights, driveways and other improvements in order to comply with such requirement may be offset from the Rent, except for such costs incurred with respect to the opening of 22nd Street by the Port for non-exclusive, general circulation through the Pier 70 area, which may occur at the Port's sole option without Rent abatement; however in such event Port shall be responsible for the cost of any fencing that Port requires along the extended 22nd Street corridor. The parties agree that any such costs incurred to modify the original configuration of the Premises due to a surrender of possession of Parcel B to the Port due to DPT's inability to obtain a BCDC permit for use of Parcel B consistent with this MOU may not be offset from the Rent.

4. At any time during the Term of the MOU, the Port may elect to implement the extension of 22nd Street in the approximate location shown on Exhibit A. In order to fully implement the extension of 22nd Street, a fence will have to be installed around certain areas demising the Premises from the new roadway to provide for adequate security for the Premises. The responsibility to construct the fence is at the sole cost and expense of the Port. Both Port and DPT herein agree that, at the Port's option, Port Executive Director may require DPT's Licensee, upon ninety (90) days written notice, to construct the fence at a cost not to exceed the Construction Costs defined below. The scope and specification of the fence shall be in the Port's sole discretion. In consideration for installation of the fence by DPT's Licensee, and expenditures related thereto, and upon approval by Port of Construction Costs, Port shall issue an appropriate rent credit (herein "Rent Credit") to DPT. The Rent Credit shall be a sum equal to the Construction Costs, or a sum not to exceed one hundred fifty thousand dollars ($150,000.00), whichever is the lesser amount. In the event that Licensee determines that the fence specified by the Port does not meet its security or related needs, it may elect to apply the Rent Credit for estimated Construction Costs of the fence specified by the Port to the costs of an alternate fence, provided that: (i) it obtains a building permit from the Port for construction of the alternate fence, (ii) the alternate fence is more expensive than the fence initially specified by the Port, and (iii) the Port Executive Director approves the plan for the alternate fence. "Construction Costs" are defined to be the lesser of the estimated or actual costs incurred for labor, materials, contractor fees, and reasonable architecture and engineering fees in connection with the project pursuant to a bid obtained under a guaranteed not-to-exceed construction bid for the fence project that is approved by the Port Executive Director. In order for construction of the project to be authorized by Port: DPT must first obtain, prior to commencing the project, written approval from Port Executive Director that the Construction Costs of the proposed project are reasonable; and DPT, or its Licensee, must obtain all required governmental approvals, including, but not limited to building permits. After the completion of the approved project, DPT must deliver to Port an itemized statement of the actual Construction Costs expended on the

approved project, accompanied by documentation substantiating all said expenditures. Such documentation of expenditures shall include: (i) copies of executed contracts; (ii) copies of invoices for labor, services and/or materials, copies of bills of lading, and/or copies of other bills or receipts for goods, materials and/or services; (iii) copies of canceled checks, and (iv) such other proofs of expenditure as may by reasonably requested by Port. Such appropriate proofs of expenditure may include copies of canceled checks; copies of contracts or invoices for labor, services and/or materials marked "Paid", or otherwise evidenced as having been paid bills of lading marked "Paid"; other bills, contracts, receipts for goods materials and/or services marked "Paid" and such other proofs of expenditure as may be reasonably approved by Port. All such proofs of expenditure must be directly attributable to the approved project and may include materials purchased by DPT for installation by Port but not the Port's cost if it undertakes such installation.

e. Formula for Abatement/Credit. All rent credits available to DPT permitted by Section 5(d) shall be applied against Base Rent payment obligation during the Term at a rate not greater than one half (½) of the applicable month Base Rent payment and shall be applied if and only if DPT is in good standing and is not in default of any of the terms of this MOU. In the event that the total of rent credits available to DPT pursuant to Section 5(d) and any other sections of this MOU exceeds an amount equal to one half (½) of the Base Rent payment for any one calendar month, the remaining available Rent Credit shall be carried forward to successive calendar months at a rate not to exceed one half (½) of the applicable Base Rent payment, until all available rent credits have been fully applied. In no event, however, shall DPT be entitled to the application of any rent credits or the value thereof, beyond the expiration or earlier termination of this MOU.

6. Financial Assurances and Fines for Violations.

a. DPT agrees that it shall require Licensee to provide DPT and the Port with a security deposit of at least $1,000,000.00 to secure Licensee's obligations under this MOU, the Towing Agreement and the License ("Security Deposit").

b. The parties agree that at least $250,000.00 of the Security Deposit shall be reserved as a security for rental payments ("Rental Payment Security Deposit") due to Port hereunder, and DPT shall require Licensee to provide the Rental Payment Security Deposit in the form of a financial guarantee that is directly accessible to the Port at all times during the term of the License. The amount of the Rental Payment Security Deposit shall be increased in accordance with increases in Rent so as to equal at least two months' Rent at all times.

c. The parties agree that at least $400,000.00 of Licensee's Security Deposit shall be reserved for the purposes of (i) ensuring regulatory compliance and to pay Port and DPT costs in the event that Licensee receives a notice of violation or other regulatory order from a governmental or regulatory agency with jurisdiction over the Premises and or Licensee's operations (other than from the Port) and Licensee does not achieve compliance with the notice of violation or order to the satisfaction of the issuing agency within the time specified by the agency or by the City if the agency does not specify a timeframe; or (ii) reimbursement of any fine or other charge assessed against the City related

to any notice of violation or other regulatory order issued to Licensee; or (iii) reimbursing the City for costs associated with City's environmental assessments or corrective action, which may be performed at the City's sole discretion; or (iv) for property damage to the Premises ("Environmental and Property Security Deposit"). DPT shall require Licensee to provide the Environmental and Property Security Deposit in the form of a financial guarantee that is directly accessible to the Port at all times during the term of the License.

d. DPT agrees that it shall require Licensee to provide, maintain and replenish throughout the Term of the License and for a period of at least ninety (90) days after expiration of the License, an Environmental Oversight Deposit in the amount of $10,000, which shall be deposited in an account to be specified by and accessible to the Port. If Licensee receives a notice of violation or other regulatory order from a governmental or regulatory agency with jurisdiction over the site and or its operations (other than from the Port), and such notice is not cured within fourteen (14) days, the City may draw from this deposit to reimburse the City for staff costs incurred by the City while inspecting site conditions and enforcing and administering the Hazardous Materials provisions of the License. If Licensee receives a notice of violation or other regulatory order from a governmental or regulatory agency with jurisdiction over the site and or its operations (other than from the Port), and such notice is cured within fourteen (14) days, the City may draw from this deposit in an amount not to exceed $500 to reimburse the City for staff costs incurred by the City. The City will submit an invoice to Licensee for any such costs, and Licensee will pay such invoiced amounts within thirty (30) days to replenish the Environmental Oversight Deposit.

e. Port and DPT agree to cooperate in enforcement of the License requirements, including the imposition of any fines allowed under Section 6.7 of the License as appropriate. DPT shall have primary responsibility for enforcement of fines and providing notification of violations to Licensee. If Port identifies violations of the License requirements, it may notify DPT and DPT shall notify Licensee of the violation and imposition of fines within three (3) business days. In the event that Port notifies DPT of a violation of the License which results in the imposition of fines pursuant to Section 6.7, the fines for such violations shall be paid to Port.

7. Permitted Uses. The Premises shall be used for temporary storage and transfer of motor vehicles towed pursuant to the Towing Agreement between DPT and Licensee, for related office use as necessary to meet its obligations under the Towing Agreement and to conduct weekly public auction "lien sales" required by state laws and related uses, and for no other purpose. The buildings identified as Buildings 12, 15, 16, 31, and 32 on Exhibit A shall only be used to store vehicles and shall not be used as office space. Occupancy of the loft area of Building 12 will not be permitted unless all State and City Code requirements are satisfied, as determined by the Port. DPT and Licensee shall not use the Premises for any other purpose, including, without limitation, vehicle crushing and dismantling. Licensee may seek authorization from the Port Executive Director and DPT to maintain, fuel or wash vehicles and/or to sell vehicle parts from the Premises for the purpose of making auctioned or lien sold vehicles operable. These activities may only be conducted on the Premises after both of the following occur: (i) the Port Executive Director and DPT authorize the specific activity in writing, and (ii) the

specific activity is incorporated as authorized into the appropriate section of the Operations Plan as described in Section 14(k) herein, including a description of the manner in which the activity will be conducted on the Premises, and such addition to the Operations Plan is approved as required by Section 14(k) herein, the Towing Agreement, Appendix A Section 14 and Appendix B. Once approved as provided herein, such approval of Operations Plan elements listed in Appendix B as "Pier 70 Operation Plan Elements" may not be revoked except as part of a regular amendment of the Operations Plan under the Towing Agreement. DPT, SFPD, its Licensee and their respective agents or employees shall use 20th and/or 22nd Street for access and egress to and from the Premises. No loading, unloading, queuing, parking or storage of vehicles will be permitted on any adjacent Port property, public streets or rights-of-way in the vicinity unless provided for in a separate agreement executed by both parties. DPT shall not authorize the placement of advertising or signage in areas on or about the Premises without the prior written permission of the Port, subject to the Port sign guidelines. DPT agrees to require and enforce an Operations Plan through the Towing Agreement, which will incorporate the provisions required in Section 14(k) of this MOU.

8. BCDC Permit. Port shall cooperate with DPT and its Licensee(s) in obtaining any necessary BCDC permits and approvals, including, if necessary, joining with DPT or Licensee as a co-applicant, provided that DPT or Licensee pay all fees and satisfy all conditions incurred in the BCDC process.

9. Maintenance, Improvements, Utilities, Surrender of Premises. DPT will be strictly responsible for the security of the Premises, and the maintenance of the Premises and all utilities thereon in good order and repair. DPT agrees not to make or authorize any improvements or alterations to the Premises without the prior written consent of Port, which consent shall not be unreasonably withheld. DPT will pay, or cause to be paid for, all utility services provided to the Premises, including but not limited to electricity, water, sewer, gas and telephone, and will provide any scavenger service necessitated by its use of the Premises. At the expiration or sooner termination of this MOU, DPT shall surrender the Premises clean and free of any vehicles, auto parts, Hazardous Materials or other materials introduced and stored on the Premises by DPT or its Licensee(s) and shall repair any damage to the Premises occasioned by DPT's use, excluding ordinary wear and tear. DPT shall require the Licensee to have a letter of credit or other guarantee securing Licensee's obligation to remove all vehicles, auto parts, Hazardous Materials, improvements, alterations or other materials introduced and stored on the Premises by Licensee, in a form and amount acceptable to the Port, in its reasonable discretion.

10. Insurance. DPT shall require, pursuant to the Towing Agreement and/or any other written instrument acceptable to the Port, that Licensee and any other subtenant or any agent, contractor or subcontractor (collectively referred to as "Licensee" for the purpose of this section) it hires in connection with its use of the Premises shall secure such insurance as is recommended by the City Risk Manager and approved by Port, which approval shall not be unreasonably withheld. Such required insurance shall include, at a minimum, Commercial General Liability coverage with policy limits of five million dollar ($5,000,000) per occurrence. All liability insurance policies shall be endorsed to name the City and County of San Francisco, the Port Commission and their officers, directors and employees as additional insureds. DPT shall require the Licensee to provide to the Port certificates of

insurance and policy endorsements upon execution of the Towing Agreement, and as the insurance and endorsements are renewed during the Term. For Commercial General Liability insurance required of the Licensee, DPT's Towing Agreement shall require the Licensee to provide an endorsement in the form of ISO Form 2026 or its equivalent, without modification.

11. Damages and Indemnity. DPT, directly and through its Licensee, agrees to be responsible for all costs associated with all claims, judgments, damages, penalties, fines, costs, liabilities or losses, including costs of defense and attorneys fees, which arise as the result of presence of Hazardous Materials (as defined in the License) on the Premises or out of any injury or death of any person or damage of any property occurring in, on or about the Premises, as the result of any other act or omission of DPT or the Licensee or the officers, directors, employees, agents, or invitees of DPT or the Licensee. The foregoing obligations of DPT shall survive the termination of this agreement. Furthermore, this MOU imposes no responsibility on DPT or Licensee for any claims, judgments, including costs of defense and attorneys' fees, damages, penalties, fines, costs, liabilities or losses which arise from existence of Hazardous Materials introduced onto the Premises by (1) the Port or its officers, directors, employees, agents, or invitees (unless by DPT or Licensee), or (2) any prior occupants, tenants, property owners, individuals, corporations or entities, except as otherwise expressly provided in Section 2 of this MOU.

12. Compliance of Licensee(s) with Terms; Port Consent; Assignment. During the Term of this MOU, DPT may issue a Request for Proposals ("RFP") or other solicitation to award a Licensee the right to enter into a Towing Agreement with DPT for the purpose of towing, storing and disposing of abandoned and illegally parked vehicles. DPT hereby agrees to include this MOU in any such RFP or solicitation. DPT further agrees that the Towing Agreement and any other agreement entered into by and between DPT and another party granting such party use of the Premises shall incorporate all of the terms and conditions of this MOU, and require Licensee's or such other party's agreement to comply with all of terms and conditions set forth hereunder. Prior to submitting Towing Agreement for approval, DPT shall provide Port with a copy of such Towing Agreement and the License to use the MOU Premises, and Port shall review the Towing Agreement and License for consistency with this MOU. Any License or other agreement granting a party use of the Premises shall be subject to the prior written consent of the Port Director, in the Port Director's reasonable discretion. Consent to the License shall not be construed as a waiver or release of any DPT obligation under this MOU, nor shall it create a privity of contract between Port and Licensee. DPT shall not consent to the assignment or assign the Towing Agreement or enter into any new agreement during the Term without the prior written consent of Port pursuant to this section. Prior to entering into a new agreement or assigning the Towing Agreement or License to a new Licensee, DPT will disclose to the Port any outstanding obligations of the previous Licensee, and present a plan describing how such obligations will be met by DPT and/or the Licensee or assigned to the new Licensee.

13. Entry.

a. Port may enter upon the Premises at any reasonable time with or without notice to

DPT or the present occupant of the Premises when deemed reasonably necessary to oversee or inspect Licensee's operations or conduct any business with Licensee, to show the Premises to prospective tenants or other interested parties, to post notices of non-responsibility, to conduct any environmental audit of Licensee's use of the Premises, to repair, alter or improve any part of the Buildings, Building Systems or the Premises, whenever City believes that emergency access is required, for the protection of the Port's interests and for any other lawful purpose. In the event Port chooses to install or replace metal plates and bull rails around the trenches located on the Premises, DPT and any present occupant of the Premises shall permit such entry and shall cooperate with and not interfere with such work.

b. The Port reserves for itself and its designees, the right to enter the Premises and any portion thereof at all reasonable times upon reasonable advance oral or written notice to Licensee (except in the event of an emergency) for the following purposes: (a) to conduct inspections or inventories; (b) to install, inspect, sample, monitor, close and abandon permanent or temporary groundwater wells; (c) to obtain environmental samples from all media, from both on and offshore areas; (d) to conduct utility clearances; and (e) to conduct cleanup activities. Port shall use its reasonable good faith efforts to conduct any activities on the Premises allowed under this Section in a manner that, to the extent practicable, will minimize any disruption to Licensee's use hereunder. Licensee will cooperate with Port by complying with reasonable requests to temporarily relocate vehicles and other operations to accommodate the Port, at no expense to the Port. Except as otherwise specified herein, Port shall not be liable in any manner, and Licensee hereby waives any claims, for any inconvenience, disturbance, loss of business, nuisance or other damage arising out of Port's or its designees' entry onto the Premises, except damage resulting directly and exclusively from the gross negligence or willful misconduct of Port or its designees and not contributed to by the acts, omissions or negligence of Licensee or Contactor's Invitees.

14. Property Use Conditions. DPT shall include the following conditions in any property lease or license with any Licensee:

a. Requirement that Premises be Used. Licensee shall continuously use the Premises for the uses specified in this MOU.

b. Compliance with Laws and Regulations. Licensee, at Licensee's cost and expense, shall comply with all laws, ordinances, judicial decisions, orders and regulations of federal, state, county and municipal governments and the departments, courts, commissions, boards and officers thereof pertaining to Licensee's use and occupation of the Premises in effect either at the time of execution of the Towing Agreement or at any time during the Term. Licensee further understands and agrees to be responsible and comply within its leased Premises with 42 USCS 12101, et seq., commonly known as the Americans with Disabilities Act.

c. Mineral Rights. The State of California, pursuant to Section 2 of Chapter 1333 of the Statutes of 1968, as amended, has reserved all subsurface mineral deposits, including oil and gas deposits, on or underlying the Premises. In accordance with the provisions of said statute, Port and Licensee shall and hereby do grant to the State of California the right to explore, drill for and extract

said subsurface minerals, including oil and gas deposits, from an area located by the California Grid System, Zone 3, beginning at a point where X equals 1,456,113 and Y equals 463,597, extending 1,000 feet south, thence 1,000 feet east, thence 1,000 feet north, and thence 1,000 feet west, ending at said point of beginning.

d. Possessory Interest Tax. Licensee acknowledges and understands that a possessory interest subject to property taxation may be created by the Towing Agreement and that Licensee may be subject to the payment of property taxes levied on such possessory interest. Licensee further acknowledges that Licensee is familiar with San Francisco Administrative Code Sections 23.38-23.39, which require that Port submit a report, which includes specified information relating to the creation, renewal, sublease, or assignment of any such possessory interest, to the County Assessor within 60 days after any such transaction. Licensee agrees to provide to Port the information required by Sections 23.38-23.39 within 30 days of a request in writing by Port to do so.

e. Hazardous Materials

1. Each party to the MOU will cooperate to affirmatively enforce the License to the fullest extent possible and in a manner that protects the Premises and the City from potential liability related to Hazardous Materials and Environmental Laws.

2. The License shall require the Licensee, prior to termination of the License or during the Term if required by a governmental agency, at its sole cost and expense, to remove any and all Hazardous Materials introduced in, on, under or about the Premises by Licensee, its agents or invitees during the term of the License. Prior to the termination of the License, Port, DPT and Licensee shall conduct a joint inspection of the Premises for the purpose of identifying Hazardous Materials on the Premises which Licensee is required to remove.

3. If Licensee fails to fulfill its removal obligations, DPT shall undertake such obligations, or make funds available to the Port to fulfill such obligations.

f. Improvements and Alterations.

1. Definitions. "Alterations" means any alterations, including, but not limited to demolition, removal, installations or additions to or improvements to the Property, including the installation of any appurtenances or trade fixtures affixed to the Property, including those constructed by or on behalf of Licensee to the Improvements or to the Premises. "Improvements" means any and all buildings, structures, fixtures or other improvements constructed or installed on the Premises, including those constructed by or on behalf of Licensee pursuant to the Towing Agreement (including, without limitation, any trailers, signs, roads, trails, driveways, parking areas, curbs, walks, fences, walls, stairs, poles, plantings and landscaping).

2. Construction Requirements. All Alterations or Improvements to the Premises made by or on behalf of Licensee shall be subject to the following conditions, which Licensee

covenants faithfully to perform. Licensee shall not make, nor cause or suffer to be made, any Alterations or Improvements to the Premises until Licensee shall have first obtained DPT and Port written approval, and if granted, then obtained a permit therefore from the Port Engineering Department, with respect to the Premises, and any other permits or approvals as the Port's Chief Harbor Engineer deems necessary, and any required approvals of regulatory agencies having jurisdiction over the Premises. All Alterations or Improvements shall be done at Licensee's expense in accordance with plans and specifications approved by, and subject to any conditions imposed by, DPT and Port, and only by duly licensed and bonded contractors or mechanics approved by DPT. Any proposed Alterations to Buildings 12,15,16, 31, and 32 must comply with the federal Secretary of the Interior Standards of Rehabilitation, as determined by the Port. DPT may require Licensee, at Licensee's expense to obtain the prior written approval of City's Arts Commission with respect to any Alterations or Improvements, to the extent that Arts Commission has jurisdiction over the design of such proposed alterations under City's Charter Section 5.103. Licensee shall pay to Port any applicable permit fees for such Alterations in accordance with standard permit fees generally charged to Port tenants, as adopted by the Port Commission.

(i) All Alterations and Improvements shall be constructed in a good and workmanlike manner and in compliance with all applicable building, zoning and other applicable Laws, and compliance with the terms of and the conditions imposed in any Regulatory Approval;

(ii) All Alterations and Improvements shall be performed with reasonable dispatch, delays beyond the reasonable control of Licensee excepted; and

(iii) At the completion of the construction of the Alterations or Improvements, Licensee shall furnish one (1) set of "as-built" drawings of the same made on or to the Premises. Unless otherwise stated as a condition of the Regulatory Approval, this requirement may be-fulfilled by the submittal after completion of the Alterations or Improvements of a hand-corrected copy of the approved permit drawings.

(iv) Licensee shall have procured and paid for all Regulatory Approvals (as defined in paragraph 14(i) below) required to be obtained for such Alterations or Improvements, including, but not limited to, any building or similar permits required by Port or its Chief Harbor Engineer in the exercise of its jurisdiction with respect to the Premises.

3. Improvements Part of Realty. All Alterations or Improvements to the Premises made by or on behalf of Licensee which may not be removed without substantial injury to the Premises shall become part of the realty, shall be owned by Port and shall, at the end of the Term hereof, remain on the Premises without compensation to Licensee, unless Port first waives its right to the Alterations or Improvements in writing.

4. Removal of Improvements. At Port's election made in accordance with Section 14(f)5 hereof, Licensee shall be obligated at its own expense to remove and relocate or demolish and remove (as Licensee may choose) any or all Alterations or Improvements which Licensee has made to the Premises, including without limitation all telephone wiring and equipment installed by Licensee. Licensee shall repair, at its own expense, in good workmanlike fashion any damage

occasioned thereby, except as may be provided in Section 14(f)(7) below.

5. Notice of Removal. Prior to the termination of the Towing Agreement, Port shall give written notice to Licensee (herein "Notice of Removal") specifying the Alterations or Improvements or portions thereof which Licensee shall be required to remove and relocate or demolish and remove from the Premises, in accordance with Section 14(f)4. If termination is the result of loss or destruction of the Premises or any Improvements thereon, Port shall deliver said Notice of Removal to Licensee within a reasonable time after the loss or destruction. If Licensee fails to complete such demolition or removal on or before the termination of the Towing Agreement, Port may perform such removal or demolition at Licensee's expense, and Licensee shall reimburse Port upon demand therefor. The Notice of Removal shall not include any Alterations which were previously designated as not subject to removal in accordance with Section 14(f)(7) below.

6. Removal of Non-Permitted Improvements. If Licensee constructs any Alterations or Improvements to the Premises without Port's prior written consent or without complying with Section 14(f)2 hereof, then, in addition to any other remedy available to Port, Port may require Licensee to remove, at Licensee's expense, any or all such Alterations or Improvements and to repair, at Licensee's expense and in good workmanlike fashion, any damage occasioned thereby. Licensee shall pay to Port all special inspection fees as set forth in the San Francisco Building Code for inspection of work performed without required permits.

7. Alterations Not Subject to Removal. Licensee may submit a request for a City determination to Port and DPT prior to commencing work on an Alteration, for the purpose of requesting a determination of whether the Alteration would or would not be required to be removed upon expiration or termination of this License. Such request for determination shall be submitted to DPT and to the Executive Director of the Port. The Executive Director of the Port shall have sixty (60) days to review the request and to respond to Licensee with a determination of whether the proposed Alteration would or would not be required to be removed upon termination of this License. This Section shall not apply to Alterations that are required by any regulatory authority to conform the Premises or any building thereon to a requirement of statute, ordinance or regulation.

g. Suitability: Acceptance. Licensee acknowledges that Port has made no representations or warranties concerning the Premises and accepts the Premises in its "As Is" "With All Faults" condition.

h. Liens. Licensee shall keep the Premises free from any liens arising out of any work performed, materials furnished or obligations incurred by Licensee or its Agents. In the event that Licensee shall not, within twenty (20) days following the imposition of any such lien, cause the same to be released of record, DPT and Port shall have, in addition to all other remedies provided by the Towing Agreement or by Law, the right but not the obligation to cause the same to be released by such means as it shall deem proper, including without limitation, payment of the claim giving rise to such lien. All sums paid by DPT or Port for such purpose and all reasonable expenses incurred by Port in connection therewith shall be payable to Port by Licensee within thirty (30) days following written demand by DPT

or Port.

i. Regulatory Approvals. Licensee understands that Licensee's operations on the Premises, changes in use, or Improvements or Alterations to the Premises may require an authorization, approval or a permit required by any governmental agency having jurisdiction over the Premises, including but not limited to the Bay Conservation and Development Commission ("BCDC") ("Regulatory Approval"). Licensee shall be solely responsible for obtaining any such Regulatory Approval, and Licensee shall not seek any Regulatory Approval without first obtaining the approval of DPT and the Port. All costs associated with applying for and obtaining any necessary Regulatory Approval shall be borne by Licensee. Licensee shall be solely responsible for complying with any and all conditions imposed by regulatory agencies as part of a Regulatory Approval. Any fines or penalties imposed as a result of the failure of Licensee to comply with the terms and conditions of any Regulatory Approval shall be paid and discharged by Licensee, and Port shall have no liability, monetary or otherwise, for said fines and penalties. To the fullest extent permitted by Law, Licensee agrees to indemnify and hold City, Port and their Agents harmless from and against any loss, expense, cost, damage, attorneys' fees, penalties, claims or liabilities which City or Port may incur as a result of Licensee's failure to obtain or comply with the terms and conditions of any Regulatory Approval.

j. Utilities. Licensee shall make arrangements and shall pay all charges for all utilities to be furnished on, in or to the Premises or to be used by Licensee, including, without limitation, gas, electrical, water, sewer, scavenger service and telecommunications services. Licensee shall pay all charges for said utilities, including charges for the connection and installation of the utilities.

Licensee shall be obligated, at its sole cost and expense, to repair and maintain in good operating condition all utilities located within the Premises and all utilities installed by Licensee (whether within or outside the Premises). If Licensee requests Port or City to perform such maintenance or repair, whether emergency or routine, either Port or DPT may, in their sole discretion, elect to do so, and Port or City shall charge Licensee for the cost of the work performed at the then prevailing standard rates, and Licensee agrees to pay said charges to Port or City promptly upon billing. Licensee shall pay for repair of utilities located outside the Premises (regardless of who installed the same) which are damaged by or adversely affected by Licensee's use of such utility and shall be responsible for all damages, liabilities and claims arising therefrom. The parties agree that any and all utility improvements shall become part of the realty and are not trade fixtures.

k. Operations Plan. DPT shall cause the Licensee to submit to the Port the Operations Plan elements identified below, pursuant to Section 14 of Appendix A to the Towing Agreement. The Licensee shall be required to submit those proposed Operations Plan elements to the Port and DPT at the same time, and the Port and DPT will confer in a timely manner so that DPT may satisfy the time limits established in Towing Agreement Appendix A, Section 14, and DPT will forward Port requested revisions to Licensee, and DPT shall not accept an Operations Plan element that is inconsistent with this MOU or the License Agreement for Pier 70.

1. Pollution Prevention Plan: Providing for: (i) the proper storage, handling and disposal of hazardous materials and hazardous waste, including volumes and locations where such materials will be handled and stored; (ii) spill prevention and response, including prevention measures and equipment and training to respond to spills; (iii) wastewater management practices; (iv) solid waste management plan, including disposal of regulated materials (e.g. tires) and recycling; (v) management practices for any authorized vehicle or equipment maintenance or other activities posing a potential for environmental impact; and (vi) related administrative controls. This Plan should include information related to best management practices employed by the Licensee related to any of the activities described above.

2. Utilities Maintenance Plan

3. Pier 70 Premises Maintenance Plan: Providing for the maintenance of the surface of the Premises, including the initial seal coating of paved areas, supervised video or photo documentation of initial surface conditions, ongoing inspection, spill and drip response procedures, maintenance of cracks and other identified deficiencies, re-application of seal coat, staff training protocols, and supervised video or photo documentation of exit surface conditions. This plan shall include other property management protocols, including but not limited to, maintenance of fencing, lighting, signage and buildings, permanent or temporary.

4. Facility Plan: Providing for the Contractor's conduct of a clean, well-maintained and efficient business operations program to minimize or avoid external effects on surrounding streets and parking supply, property, businesses and residents in the neighborhood. This Plan should include information provided to employees, tow truck operators and auction attendees to educate them on these issues and recommended actions to appropriately address them.

5. Public Auction Plan: Describing auction procedures designed to minimize or avoid external effects on surrounding streets, property, businesses and neighbors, including a parking plan for auction participants designed to reduce parking impacts of auction events, and information to be provided to all auction attendees to inform them of prohibitions on vehicle abandonment. This Plan shall address community concerns and provide for communication with community representatives in designing signage and information provided to educate customers and other site visitors of local safety, parking and neighborhood concerns. Licensee shall commit to facilitate a positive relationship with the community by offering to meeting regularly or as needed with neighborhood representatives.

15. Notices. All notices, demand, consents or approvals which are or may be required to be given by either party to the other under this MOU shall be in writing and shall be deemed to have been fully given when delivered in person to such representatives of Port and DPT as shall from time to time be designated by the parties for the receipt of notice, or when deposited in the United States mail, postage prepaid, and addressed, if to Port to:

Director of Real Estate
Port of San Francisco
Pier 1

	San Francisco, CA 94111
FAX No:	**(415) 274-0578**
Telephone No:	**(415) 274-0510**

And if to DPT to:	**Department of Parking and Traffic**
	City and County of San Francisco
	Attention: Steve Bell
	25 Van Ness Avenue, Suite 230
	San Francisco, CA 94102
Telephone No:	**(415) 554-9825**
Fax:	**(415) 252-3272**

16. Successors and Assigns. The covenants and conditions contained herein shall inure and bind the heirs, successors, executors and assigns of the Port, DPT and the Licensee.

17. Severability. The invalidity or unenforceability of a particular provision of this MOU shall not affect the other provisions hereof.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed as of the date first written above.

AGREED TO AS WRITTEN ABOVE:
SAN FRANCISCO PORT COMMISSION

By: Monique M. Moyer
MONIQUE MOYER
Executive Director
Port of San Francisco

Authorized for execution
by Port Commission
Resolution Number: 05-32

Date: MAY 10, 2005

AGREED TO AS WRITTEN ABOVE:
DEPARTMENT OF PARKING & TRAFFIC

Recommended By:

By: Bond M. Yee
BOND YEE
Acting Director

Date: MAY 10, 2005

Approved:

By:
STUART SUNSHINE
Acting Director of Transportation
Municipal Transportation Agency

Date: JULY 31, 2005

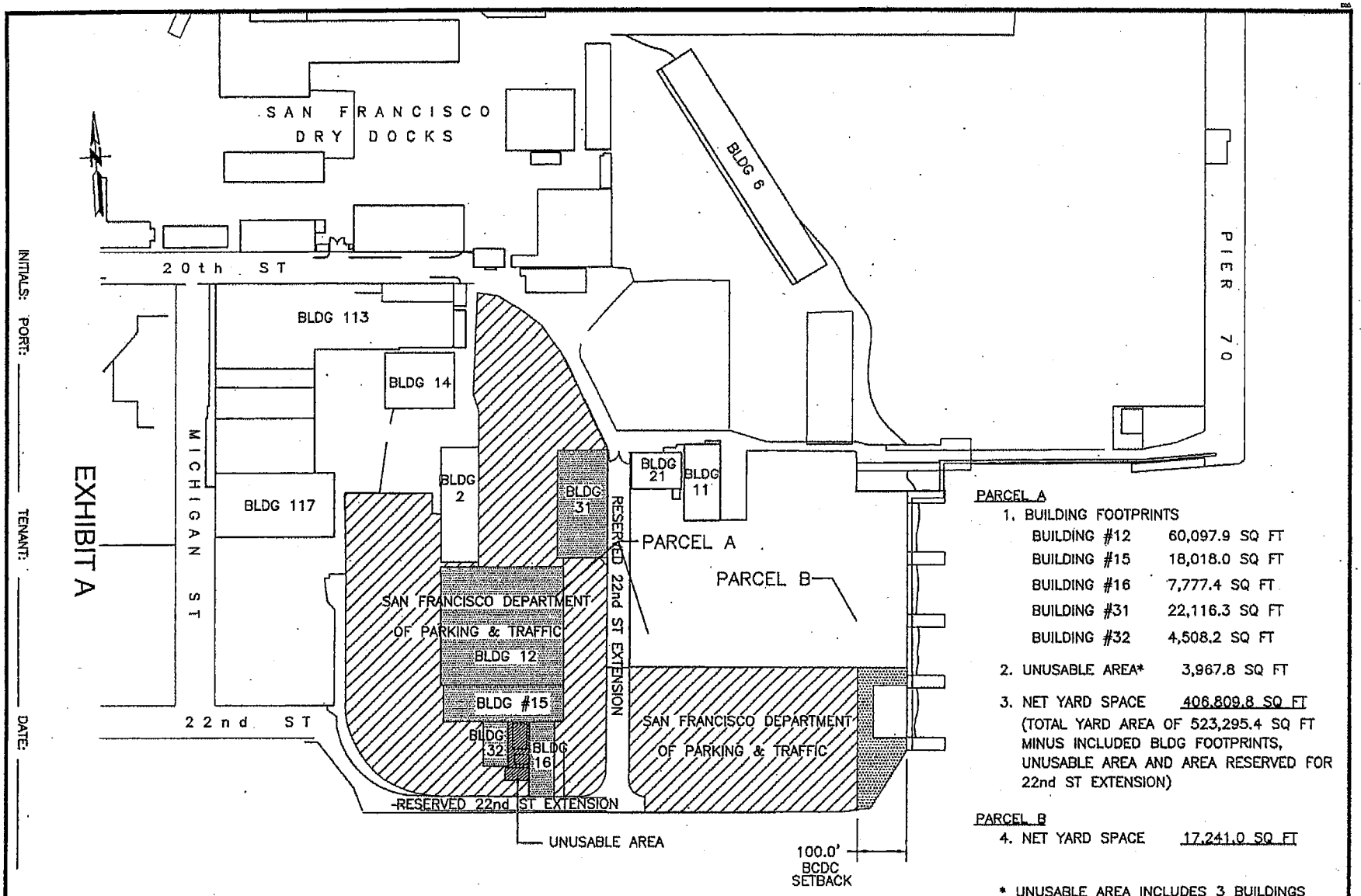
Municipal Transportation Agency
Board of Directors
Resolution No. 05-085

Adopted: JUNE 7, 2005

Attest: R. Boomer
Secretary, MTA Board

REVIEWED:
DENNIS J. HERRERA, City Attorney

By:
Deputy City Attorney



PARCEL A

1. BUILDING FOOTPRINTS

BUILDING #12	60,097.9 SQ FT
BUILDING #15	18,018.0 SQ FT
BUILDING #16	7,777.4 SQ FT
BUILDING #31	22,116.3 SQ FT
BUILDING #32	4,508.2 SQ FT

2. UNUSABLE AREA* 3,967.8 SQ FT

3. NET YARD SPACE 406,809.8 SQ FT
(TOTAL YARD AREA OF 523,295.4 SQ FT MINUS INCLUDED BLDG FOOTPRINTS, UNUSABLE AREA AND AREA RESERVED FOR 22nd ST EXTENSION)

PARCEL B

4. NET YARD SPACE 17,241.0 SQ FT

* UNUSABLE AREA INCLUDES 3 BUILDINGS AND YARD SPACE BETWEEN BLDGS 16 & 32

INITIALS: PORT: _____ TENANT: _____ DATE: _____

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LEASE NO. M-13828	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	TENANT SAN FRANCISCO DEPT. OF PARKING & TRAFFIC	DRAWN BY: ECC CHECKED BY: M LOZOVOY PLACE CODE NO. 3490-OC-002 DATE: APR 26, 2005 SCALE: 1" = 300' SHEET NO. OF SHEETS

O:\PROPERTY FILES\LEASE MAPS\EXHIBITS-SWL\CITYTOW349REV.DWG

FIRST AMENDMENT TO MOU

Port Reference MOU M-13828

This First Amendment to Memorandum of Understanding Port Reference M-13828 ("**First Amendment**") is entered into by and between the Municipal Transportation Agency, an agency of the City and County of San Francisco ("**MTA**") and the San Francisco Port Commission, an agency of the City and County of San Francisco ("**Port**").

RECITALS

A. Effective on July 30, 2005, Port and MTA entered into a lease of certain real property located at Pier 70 in the City and County of San Francisco, State of California as more particularly described in the "**Original MOU**". With Port's consent, as required by the Original MOU, MTA simultaneously entered into an agreement with Tegsco, LLC, dba San Francisco AutoReturn ("**AutoReturn**") to conduct automobile towing and storage operations for the City, which included a license to use the Port property for storage and other required services. MTA's agreement with AutoReturn expires on July 30, 2010. The Original MOU had a five year term expiring on July 30, 2010 and an extension option through March 1, 2012. Through correspondence (including a letter dated February 17, 2009 from Port to MTA), Port and MTA agreed to extend the Original MOU until March 1, 2012.

B. The Original MOU contemplated that it would be concurrent with the initial agreement with AutoReturn. MTA has determined that it will renew or extend its contract with AutoReturn ("**Licensee**") until July 31, 2015 without a competitive bid, subject to approval by the Board of Supervisors. Accordingly, the parties have agreed to extend the Original MOU to cover such term and possibly additional term with AutoReturn or another MTA contractor, subject to Port's consent to any license or agreement to allow the use of the premises at Pier 70.

C. On May 11, 2010, the Port Commission adopted Resolution 10-27 by which it (1) endorsed the vision, goals, objectives, and design criteria for the Preferred Master Plan for Pier 70; and (2) authorized Port staff to prepare and issue a competitive solicitation for a private development partner for the waterfront site ("Waterfront Site") described in the accompanying Port Commission staff report which encompasses the premises contemplated by this First Amendment. Port staff expects the following timeline for the competitive solicitation authorized by the Port Commission and for subsequent development activities: issue Waterfront Site competitive solicitation in June 2010; Port Commission selection of Waterfront Site developer in late 2010; initiate environmental review in 2011; commence infrastructure/remediation work requiring site access in late 2012; commence construction on Waterfront Site in 2013 or later; and occupy Waterfront Site in 2015 or later.

D. Port and MTA are negotiating the First Amendment for their mutual benefit and to benefit the citizens of San Francisco and the State of California, and this First Amendment speaks to this goal while assisting each agency with their respective needs, including a steady income stream at fair market value rent, space that is convenient and appropriate in a San Francisco location for tow customers and contractors and continuity of operations.

E. Port and MTA now desire to amend the Original MOU to: (i) permit the Port to reconfigure the Premises with one hundred-eighty (180) days notice from Port to MTA, with MTA's approval, and partial rent credits for some relocation costs; (ii) add an additional five (5) year term from the original expiration date and to allow a year to year holdover tenancy at an increased monthly base rate of 110% in the first year, and increased by 110% in the eighteenth month, with an annual CPI increase in each year of the term and annually during any holdover period of longer than 12 months; (iii) confirm that all of the requirements of the Original MOU apply to the renewed or extended agreement and license with AutoReturn and any other MTA contractor providing the services described; (iv) provide for partial or complete termination by either party with twelve (12) months notice; (v) allow Port to access up to 15% of the Premises

to facilitate development of Pier 70, with ninety (90) days notice from Port to MTA, with rent credits or third party reimbursement for specified relocation costs ; (vi) require MTA to conduct a relocation study; (vii) add a requirement that MTA comply with Port's Southern Waterfront Beautification Policy, which was adopted subsequent to the effectiveness of the Original MOU, through specified actions and to authorize rent credits for a portion of same; and (viii) make other changes consistent with the above.

F. The Original MOU and this First Amendment shall collectively be referred to as the "**MOU.**" All capitalized terms used herein but not otherwise defined shall have the meaning given to them in the Original MOU.

NOW THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the Port and MTA hereby amend the Original MOU as follows:

AGREEMENT

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference as if fully set forth herein.

2. Pursuant to Section 16 of the Original MOU, the parties agree that MTA is a successor of DPT and that MTA will fulfill all of the obligations and responsibilities and have all of the rights of DPT as set forth in the Original MOU. All references in the MOU to "DPT" shall now be to "MTA".

3. The parties agree that all of the provisions of the Original MOU remain in full force and effect with respect to the new, renewed or extended MTA license with AutoReturn and/or other future licenses or similar agreements to use the Premises or portions thereof with other future providers of tow services under contract with MTA. This includes without limitation, securing and maintaining a current BCDC permit (Sections 3(b) and 14(i)); compliance with the permitted uses and property use conditions, including Port approval of an Operations Plan (Sections 7 and 14); compliance with the terms of the MOU (Section 12); and Port's consent to any MTA license or similar agreement that allows use of the Premises (Section 12).

4. On the Effective Date of this First Amendment, Paragraph 3 of the Original MOU shall be amended to add a new subparagraph (f) as follows:

"3. Premises/Condition.

"f. Reconfiguration of Premises. Upon one hundred eighty (180) days notice from Port to MTA, and subject to MTA approval, Port may reconfigure the Premises by altering the boundaries of Parcel A and/or Parcel B, such that the new Parcel A and/or Parcel B contain the same approximate square footage shown and outlined on Exhibit A of this MOU. MTA shall be solely responsible for relocating vehicles and its other operations to accommodate such a reconfiguration. MTA shall be entitled to rent credits for half of the costs associated with relocating the fences, gates, lights, driveways, and other improvements pursuant to Section 5(e). Port may not require MTA to incur relocation costs that are eligible for rent credits under this section if One Hundred Fifty percent (150%) of the total value of all rent credits claimed under this MOU exceeds the total rent due for the Term. Port shall not be liable in any manner, and MTA and its licensee hereby waive any claims, for any inconvenience, disturbance, loss of business, nuisance or other damage arising out of Port's or its designees' entry onto the Premises under this Paragraph, except damage resulting directly and exclusively from the gross negligence or willful misconduct of Port or its designees and not contributed to by the acts, omissions or negligence of MTA or its licensees, Contactors or Invitees.

In order for rent credits to be authorized by Port for relocation costs under this section, MTA or its licensee must first obtain written approval from Port that the proposed costs are

reasonable and MTA or its licensee must obtain all required governmental approvals including, but not limited to Port building permits for the work. After the completion of the work, as evidenced by a certificate of completion or its equivalent by the Port's Chief Harbor Engineer, MTA must deliver to Port an itemized statement of the actual costs expended, accompanied by documentation substantiating all said expenditures. Such documentation of expenditures shall include: (i) copies of executed contracts; (ii) copies of invoices for labor, services and/or materials, copies of bills of lading, and/or copies of other bills or receipts for goods, materials and/or services; (iii) copies of canceled checks, and (iv) such other proofs of expenditure as may be reasonably requested by Port. Such appropriate proofs of expenditure may include copies of canceled checks; copies of contracts or invoices for labor, services and/or materials marked "Paid", or otherwise evidenced as having been paid; bills of lading marked "Paid"; other bills, contracts, receipts for goods materials and/or services marked "Paid"; and such other proofs of expenditure as may be reasonably approved by Port. All such proofs of expenditure must be directly attributable to the approved project."

5. On the Effective Date of this First Amendment, Paragraph 4 of the Original MOU shall be deleted and replaced with the following:

"4. Term, Early Termination; Holdover.

(a) Term. The Term of this MOU shall expire on July 31, 2015 ("**Expiration Date**").

(b) Holdover. Any holding over after the Expiration Date (**"Holdover Period"**) shall not constitute a renewal of this MOU, but be deemed a holdover tenancy upon the terms, conditions, and covenants of this MOU, except as provided in Section 5(c). Either party may cancel the holdover tenancy upon twelve (12) months written notice to the other party. "Term" shall refer to the total time period during which this MOU is effective, including any holdover period.

(c) Early Termination. Either the Port Executive Director or the MTA Executive Director or their designees shall have the right to terminate the MOU as to all or a portion of the Premises at any time for any cause or without cause during the Term (including any holdover period) upon providing twelve (12) months written notice to the other party specifying the portion(s) of the Premises affected. Concurrent with the effective date either party's early termination of all or a portion of the Premises, rent will be reduced in proportion to the amount of square footage removed from the Premises and MTA shall amend or terminate the license with AutoReturn or any current licensee accordingly. In the event that Port seeks a partial termination under this paragraph, MTA shall be solely responsible for all costs associated with such modifications or reconfiguration that MTA in its sole discretion deems necessary, including all costs incurred by MTA or its licensee to relocate the operations, Premises, fences, gates, lights, driveways, and other improvements. "

6. On the Effective Date of this First Amendment, Paragraph 5(b) of the Original MOU shall be deleted and replaced with the following:

"b. Rent Adjustment. Commencing on the Effective Date of this MOU and on each anniversary date (the "**Anniversary Date**") thereafter, including any Anniversary Date during any holdover period, the Rent shall be adjusted on the first day of the month that immediately follows the Effective Date and on that same date in each succeeding year in direct proportion to the percentage increase in the SF Bay Area CPI for the month immediately preceding the applicable Anniversary Date ("**Current Index**") over the SF Bay Area CPI index for the month of June 2004 ("**Base Index**"). In no case shall the Rent, as adjusted, be less than the Rent in effect immediately prior to the Anniversary Date. If the Current Index has increased over the Base Index, the Adjusted Rent shall be determined by multiplying the Rent by a fraction, the

numerator of which is the Current Index and the denominator of which is the Base Index, as follows:

$$\text{Base Index} \times \text{Rent} = \frac{\text{Current Index}}{\text{Adjusted Rent"}}$$

7. On the Effective Date of this First Amendment, Paragraph 5(c) of the Original MOU shall be deleted and replaced with the following:

"c. Holdover Period Rent. If neither the Port nor MTA provides notice of Early Termination by July 31, 2014 and MTA holds over, monthly Rent shall increase as provided in Section 5(b) on the 5th Anniversary Date, with the Adjusted Rent so derived multiplied by one hundred ten percent (110%) to determine the monthly Rent for the first twelve (12) months of the Holdover Period. Rent will be adjusted as provided in Section 5(b) effective on the thirteenth (13th) month of the Holdover Period. If MTA holds over more than eighteen (18) months, monthly Rent shall increased to one hundred ten percent (110%) of the monthly rent in the seventeenth (17th) month of the Holdover Period and shall be subject to further increases every 12 months as provided in Section 5(b) on each Anniversary Date."

8. On the Effective Date of this First Amendment, Paragraph 5(d)(1) of the Original MOU shall be deleted and replaced with the following:

"1. Rent Abatement and Credits. If the Premises cease to be used for towing operations at any time due to damage sustained during the Term by fire, earthquake, or other casualty rendering the Premises unsuitable for occupancy, as determined by the Port's Chief Harbor Engineer pursuant to the Port Building Code, or are otherwise deemed legally not useable in either case for reasons not attributable to MTA's or its licensee's acts or omissions, Rent hereunder shall be abated and MTA shall have the option to terminate the MOU and shall be entitled to a prorated refund of any Rent or deposits paid. In the event the Premises cease to be used for more than two (2) consecutive months for towing operations, Port, at its option, may terminate this MOU."

9. On the Effective Date of this First Amendment, Paragraph 5(d)(2) of the Original MOU shall be deleted and replaced with the following:

"2. MTA shall be entitled to a proportional abatement in the Rent if the exercise of Port's rights under section 13(b) of this MOU results in the loss of use of the Premises or any portion thereof for a period in excess of thirty (30) days or in an area in excess of 250 square feet, or if MTA surrenders the possession of Parcel B to the Port for the sole reason that it is unable to obtain a BCDC permit for use of Parcel B consistent with this MOU. The opening of 22nd Street by the Port for non-exclusive, general circulation through the Pier 70 area may occur at the Port's sole option without Rent abatement. The planned alignment for the 22nd Street Extension is as shown on Department of Parking and Traffic, Division of Traffic Engineering drawing on file with the Port's Chief Harbor Engineer, entitled "New Pier 70 Roadway – Preliminary Striping Plan", dated June 28, 2001, File Name swl349sv newroad final.dwg. The parties recognize that the final alignment may deviate as necessary to effect the right of way improvement.

10. On the Effective Date of this First Amendment, Paragraph 5(d)(3) shall be deleted and replaced with the following:

"3. The parties agree that costs incurred to modify the original configuration of the Premises due to a surrender of possession of Parcel B to the Port due to MTA's inability to obtain a BCDC permit for use of Parcel B consistent with this MOU may not be offset from the Rent."

11. On the Effective Date of this First Amendment, Paragraph 5(d)(5) shall be added to the MOU to read as follows:

"5. Upon ninety (90) days prior written notice to MTA, Port may access up to fifteen percent (15%) of the Premises for purposes related to the development of Pier 70. MTA will cooperate to ensure that Port or its licensees, Contactors or Invitees have adequate access to the designated area(s) and shall be solely responsible for costs incurred by MTA or its licensee to relocate vehicles or its other operations to accommodate Port's access. MTA shall be entitled to rent credits pursuant to Section 5(e) or third-party reimbursement arranged by Port for all costs incurred by MTA or its licensee to relocate fences, gates, lights, driveways, and other improvements. Port may not require MTA to incur relocation costs that are eligible for rent credits under this section if One Hundred Fifty percent (150%) of the total value of all rent credits claimed under this MOU exceeds the total rent due for the Term. Notwithstanding the time and square footage limitations of Paragraph 5(d)(2), if the rights exercised by Port hereunder result in the loss of use of the designated area(s) of the Premises, MTA shall be entitled to a proportional abatement in Rent. Port shall not be liable in any manner, and MTA and its licensee hereby waive any claims, for any inconvenience, disturbance, loss of business, nuisance or other damage arising out of Port's or its designees' entry onto the Premises under this Paragraph, except damage resulting directly and exclusively from the gross negligence or willful misconduct of Port or its designees and not contributed to by the acts, omissions or negligence of MTA or its licensees, Contactors or Invitees.

In order for rent credits or third party reimbursement to be authorized by Port for relocation costs under this section, MTA or its licensee must first obtain written approval from Port that the proposed costs are reasonable and MTA or its licensee must obtain all required governmental approvals including, but not limited to Port building permits for the work. After the completion of the work, as evidenced by a certificate of completion or its equivalent by the Port's Chief Harbor Engineer, MTA must deliver to Port an itemized statement of the actual costs expended, accompanied by documentation substantiating all said expenditures. Such documentation of expenditures shall include: (i) copies of executed contracts; (ii) copies of invoices for labor, services and/or materials, copies of bills of lading, and/or copies of other bills or receipts for goods, materials and/or services; (iii) copies of canceled checks, and (iv) such other proofs of expenditure as may be reasonably requested by Port. Such appropriate proofs of expenditure may include copies of canceled checks; copies of contracts or invoices for labor, services and/or materials marked "Paid" or otherwise evidenced as having been paid; bills of lading marked "Paid"; other bills, contracts, receipts for goods materials and/or services marked "Paid"; and such other proofs of expenditure as may be reasonably approved by Port. All such proofs of expenditure must be directly attributable to the approved project."

12. On the Effective Date of this First Amendment, Paragraph 5(e) of the Original MOU shall be deleted and replaced with the following:

"e. Formula for Abatement/Credit. All rent credits available to MTA permitted by Section 3(f), Section 5(d)(4) and Section 5(d)(5) shall be applied against Rent payment obligation during the Term at a rate not greater than one half (½) of the applicable month Rent payment and shall be applied if and only if MTA is in good standing and is not in default of any of the terms of this MOU. In the event that the total of rent credits available to MTA pursuant to Section 3(f), Section 5(d)(4) and Section 5(d)(5) of this MOU exceeds an amount equal to one half (½) of the Rent payment for any one calendar month, the remaining available Rent Credit shall be carried forward to successive calendar months at a rate not to exceed one half (½) of the applicable Rent payment, until all available rent credits have been fully applied. In no event, however, shall MTA be entitled to the application of any rent credits or the value thereof, beyond the expiration or earlier termination of this MOU."

13. Section 15, Notices, shall be revised by replacing MTA's address with "And if to MTA to:

San Francisco Municipal Transportation Agency
Attention: Steve Lee
One South Van Ness Avenue, 7th Floor
San Francisco, California 94103"

14. Presence of Hazardous Materials. California Law requires landlords to disclose to tenants the presence or potential presence of certain Hazardous Materials. Accordingly, MTA is hereby advised that the reports listed in *Schedule 1*, copies of which have been made available to MTA describe known or suspected Hazardous Materials (as defined in the License) on or near the Premises. MTA acknowledges that the notice set forth in this section satisfies the requirements of California Health and Safety Code Section 25359.7 and related Laws. MTA must disclose the information contained in this Section to any subtenant, licensee, transferee, or assignee of MTA's interest in the Premises. MTA also acknowledges its own obligations pursuant to California Health and Safety Code Section 25359.7 as well as the penalties that apply for failure to meet such obligations.

15. Southern Waterfront Benefits. The Port's "Policy for Southern Waterfront Community Benefits and Beautification" identifies beautification and related projects in the Southern Waterfront (from Mariposa Street in the north to India Basin) that require funding. Under this policy, MTA shall provide the following community benefits and beautification measures in consideration for the use of the Premises. All improvements must be performed in accordance with Paragraph 14(f) of this MOU.

(a) Not sooner than Eighteen (18) months after the Effective Date of this First Amendment and not later than Twenty Four (24) months after the Effective Date of this First Amendment unless otherwise approved by Port, MTA or its licensee shall expend not less than Fifty Thousand Dollars ($50,000) to design, produce and install signs and other interpretive devices describing the historic significance of the Port's Pier 70 site. The form, content and placement of such signs and other devices are subject to Port's consent in its sole discretion.

(b) MTA shall require its licensee to perform repairs as specified by Port to Building 12 Complex with costs not to exceed Four Hundred Fifty Thousand dollars ($450,000.00). Port shall not require repairs to be conducted at the same time that it implements an extension of 22nd Street under Paragraph 5(d)(4). In consideration for completion of the repairs and expenditures related thereto, and upon approval by Port of Construction Costs, Port shall issue an appropriate rent credit (herein "**Building 12 Complex Repair Rent Credit**") to MTA in accordance with the terms of this Paragraph. "**Construction Costs**" are the actual costs incurred for labor, materials, contractor fees, and reasonable architecture and engineering fees in connection with the project pursuant to a bid obtained under a guaranteed not-to-exceed construction bid that is approved by the Port prior to issuance. The Building 12 Complex Repair Rent Credit shall be a sum equal to the Construction Costs or a sum not to exceed Four Hundred Fifty Thousand dollars ($450,000.00), whichever is the lesser amount. The timing, scope and specification of the repairs shall be in the Port's sole discretion except that Port may not require Building 12 Complex repairs if the remaining rent owed by MTA for the Term minus rent credits owed to MTA pursuant to Section 3(f) and Section 5(d)(5) is less than One Hundred Fifty percent (150%) of the guaranteed not-to-exceed construction bid.

All rent credits available to MTA under this Paragraph shall be applied against Rent during the Term at a rate of 100% of the applicable month Rent payment and shall be applied if and only if MTA is in good standing and is not in default of any of the terms of this MOU. In the event that the total of rent credits available to MTA pursuant to this Paragraph exceeds an

amount equal to 100% of the Rent payment for any one calendar month, the remaining available Rent Credit shall be carried forward to successive calendar months at a rate not to exceed 100% of the applicable Rent payment, until all available rent credits have been fully applied. In no event, however, shall MTA be entitled to the application of any rent credits or the value thereof, beyond the expiration or earlier termination of this MOU.

In order for construction of the project to be authorized by Port: MTA must first obtain, prior to commencing the project, written approval from Port that the Construction Costs of the proposed project are reasonable; and MTA, or its licensee, must obtain all required governmental approvals, including, but not limited to building permits from the Port. After the completion of the approved project as evidenced by a certificate of completion or its equivalent by the Port's Chief Harbor Engineer, MTA must deliver to Port an itemized statement of the actual Construction Costs expended on the approved project, accompanied by documentation substantiating all said expenditures. Such documentation of expenditures shall include: (i) copies of executed contracts; (ii) copies of invoices for labor, services and/or materials, copies of bills of lading, and/or copies of other bills or receipts for goods, materials and/or services; (iii) copies of canceled checks, and (iv) such other proofs of expenditure as may be reasonably requested by Port. Such appropriate proofs of expenditure may include copies of canceled checks; copies of contracts or invoices for labor, services and/or materials marked "Paid", or otherwise evidenced as having been paid; bills of lading marked "Paid"; other bills, contracts, receipts for goods materials and/or services marked "Paid"; and such other proofs of expenditure as may be reasonably approved by Port. All such proofs of expenditure must be directly attributable to the approved project."

16. Relocation Study. Within six (6) months of a written request by the Port, MTA will examine options to relocate AutoReturn or its current licensee and deliver a relocation study report to the Port in a form and manner jointly agreed to by Port and MTA.

17. Contract Monitor. The Contract Monitor, as defined in Section 8.8 of Appendix A, Scope of Work, of the Towing Agreement shall cooperate with and provide to Port such information in a form and frequency as Port reasonably requests to aid Port's determination of compliance with this MOU.

18. Operations Plan. Within One Hundred Twenty Days after the Effective Date, MTA shall require AutoReturn to update its Operations Plan and submit it to Port for approval by Port's Executive Director or her designee. The current Port-approved Operations Plan will continue to apply until the revised Operations Plan is approved by Port.

19. Entire Agreement. This First Amendment contains all of the representations and the entire agreement between the parties with respect to the subject matter of this agreement.

20. Miscellaneous. This First Amendment shall bind, and shall inure to the benefit of, the successors and assigns of the parties hereto. This First Amendment is made for the purpose of setting forth certain rights and obligations of MTA and the Port, and no other person shall have any rights hereunder or by reason hereof as a third party beneficiary or otherwise. As amended hereby, the MOU is hereby ratified and confirmed in all respects and shall remain in full force and effect. In the event of any inconsistencies between the terms of this First Amendment and the MOU, the terms of this Amendment shall prevail. Neither this First Amendment nor any of the terms hereof may be amended or modified except by a written instrument signed by all the parties hereto.

21. Effective Date. The Effective Date of this First Amendment is July 31, 2010.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have caused this First Amendment to be executed as of the date first written above.

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation operating by and through THE SAN FRANCISCO PORT COMMISSION

By: _____
MONIQUE MOYER
Executive Director
Port of San Francisco

Dated: _____

Port Commission Reso. _____

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation operating by and through its SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY

By: _____
NATHANIEL FORD
Executive Director
San Francisco Municipal Transportation Agency

Dated: _____

MTA Board Reso. _____

Adopted: _____

Attest: _____
Secretary, MTA Board

REVIEWED:
DENNIS J. HERRERA, City Attorney

By: _____

Deputy City Attorney

Amendment Prepared By: Brad Benson _____
(initial)

SCHEDULE 1

ENVIRONMENTAL REPORTS AND DOCUMENTS REGARDING HAZARDOUS MATERIALS

SF MTA / AUTORETURN

MAY 11, 2010

PIER 70

1999 Annual Ground Water Monitoring Report For Piers 70 And 94, Tetra Tech, Inc., February 2000.

1999 Annual Ground Water Monitoring Report Piers 70 Tetra Tech Inc 02-2000, Tetra Tech, Inc., February 2000.

Activity Summary Report, Pier 70, Sca Environmental, Inc., 8/5/02.

Amended Report Of Waste Discharge Pier 70 Solid Waste Disposal Site, The Mark Group 8-20-90, Mark Group, August 20, 1990.

Appendices F And G - Chemical And Physical Data Tables, Volume 2 Of 3, Subchapter 15 Compliance, Pier 70, Solid Waste Disposal Site, Geo/Resource Consultants, Inc., December 1989.

Appendix H - Laboratory Data Reports, Volume 3 Of 3, Subchapter 15 Compliance, Pier 70, Solid Waste Disposal Site, Geo/Resource Consultants, Inc., December 1989.

Article 22a Compliance; City Tow, Pier 70, San Francisco; Pr0249798, Iris Environmental, January 9, 2004.

Article 22a Compliance; Former Car Crusher Building

Former City Tow, Pier 70; Ehs-Hwu Case Number 69, San Francisco Department Of Public Health, September 1, 2005.

Asbestos Abatement Report, Pick Your Part, Inc. Pier 70, Iris Environmental, May 21, 2001, Iris Environmental, May 21, 2001.

Assessment Of Suspect Asbestos-Containing Materials At The Pier 70 Office Building, 20th And Illinois Streets, Clayton Environmental Consultants, April 9, 1996.

Certification Report; Pick Your Part, Inc.; Pier 70, San Francisco, Ca, Iris Environmental, December 19, 2003.

Data Compilation Report & Appendices A Through E Data Logs, Vol. 1 Of 3, Subchapter 15 Compliance, Pier 70 Solid Waste Disposal Site, Geo/Resource Consultants, Inc., December 1989.

Final Summary Report, Soil Boring Sampling And Well Installation For Pier 70 Building Pcb Remedial Investigation, Pier 70 Mixed Use Opportunity Area

Engineering/Remediation Resources Group, Inc. Nov. 2005, Engineering/Remediation Resources Group, Inc., November 2005.

Georesource Data Compilation & Appendices A Through E Data Logs Report Vol. 1 Of 3 Subchapter 15 Pier 70 Solid Waste Disposal Site, December 1989, Geo/Resource Consultants, Inc., December 1989.

Groundwater Data Summary And Request To Rescind Waste Discharge Requirements; Pier 70 (Order 87-060) And Pier 94 (Order 87-061 Disposal Sites / Port Of San Francisco, Port Of San Francisco, August 17, 1999.

Hazardous Materials Investigation Of The Mariposa Facilities Project Area, July 1990, Erm-West, Inc., July, 1990.

Health And Safety Plan & Dust Control Mitigation And Monitoring Plan For Utility Installation And Soil Load Out Activities, Building 116 At Pier 70, Sca Environmental, Inc., 10/13/2009.

Order No. 00-030 / Rescission Of Waste Discharge Requirements In Order No. 87-060; City And County Of San Francisco / Pier 70 Class Iii Landfill, California Regional Water Quality Control Board, April 20, 2000.

Order No. 87-060 Updated Requirements; City And County Of San Francisco / Pier 70 Class Iii Landfill, California Regional Water Quality Control Board, 1987.

Pcb Removal, Corrective Action Plan, Pier 70, Building 50, Engineering-Remediation Resources Group, Inc. August 2003, Engineering/Remediation Resources Group, Inc., August 2003.

Phase 1 Environmental Site Assessment For Pier 70, Mixed Use Opportunity Area, Corner Of Illinois Street And 20th Street, Vol. I Of Ii, Environmental Site Assessment, Tetra Tech, Inc., August 1998.

Phase 1 Environmental Site Assessment For Pier 70, Mixed Use Opportunity Area, Corner Of Illinois Street And 20th Street, Vol. Ii Of Ii, Supplemental Documents, Tetra Tech, Inc., August 1998.

Phase I Brownfields, Environmental Site Assessment Report Pier 70, Ecology And Environment, Inc., March 2000.

Phase I Environmental Site Assessment For Pier 70 Maritime Use Area. Ecology And Environmental, Inc. March 2001, Ecology And Environment, Inc., March 2001.

Phase I Environmental Site Assessment For Pier 70, Mixed Use Opportunity Area, Corner Of Illinois Street And 20th Street. Tetra Tech, Inc. August 1998 (Vol. I), Tetra Tech, Inc., August 1998.

Phase I Environmental Site Assessment For Pier 70, Mixed Use Opportunity Area, Corner Of Illinois Street And 20th Street. Tetra Tech, Inc. August 1998 (Vol. Ii), Tetra Tech, Inc., August 1998.

Phase I Environmental Site Assessment, One-Acre Parcel On Swl 349, Pier 70. Iris Environmental, October 23, 2003, Iris Environmental, October 23, 2003.

Phase Ii Corrective Action Plan, Pcb Removal Action, Port Of San Francisco, Pier 70, Building 50. Engineering-Remediation Resources Group, Inc. June 2006, Engineering/Remediation Resources Group, Inc., June 2006.

Pier 70 Mixed Use Opportunity Area, Pcb Assessment, Targeted Brownfields Assessment Report, Ecology And Environment, Inc., 1/9/03.
Pier 70 Mixed Use Opportunity Area, Phase Ii, Targeted Brownfields Assessment Report. Ecology And Environment, Inc. November 2000, Ecology And Environment, Inc., November 2000.

Pier 70 Mixed Used Opportunity Area Pcb Assessment, Targeted Brownfields Assessment Report, Ecology And Environmental, Inc. January 2003, Ecology And Environment, Inc., January 2003.

Pier 70 Mixed Used Opportunity Area, Expanded Phase Ii Target Brownfields Assessment Report. Ecology And Environment, Inc. January 2004, Ecology And Environment, Inc., January 2004.

Pier 70, Building 101 Cleanup, Acc Environmental Consultants, February 22, 1996.

Pier 70, Mixed Use Opportunity Area, Phase Ii Brownfields Targeted Site Assessment, Draft Sampling And Analysis Plan, Ecology And Environment, Inc., August 2002.

Pier 70, Mixed Use Opportunity Area, Phase Ii Brownfields, Targeted Site Assessment Report, Ecology And Environment, Inc., November 2000.

Pier 70, Mixed Use Opportunity Area, Phase Ii Brownfields, Targeted Site Assessment, Sampling And Analysis Plan, Ecology And Environment, Inc., June 2000.

Removal Of Underground Tanks, Pier 70, Harding Lawson Associates, March 31, 1988.

Sample Analysis Plan, Pier 70 Building 50 Pcb Remedial Investigation, Pier 70 Mixed Use Opportunity Area, Engineering Remediation Resources Group Inc, September 2004, Engineering/Remediation Resources Group, Inc., September 2004.

Sampling And Analytical Report, Pier 70, Building 6, Curtis & Tompkins, Ltd, November 1983.

Site History Report And Work Plan City Tow, Pier 70, Iris Environmental, Inc. February 7, 2002, Iris Environmental, February 7, 2002.

Site History Report And Work Plan, City Tow, Pier 70, Iris Environmental, February 7, 2002.

Site Investigation Report, Former Crusher Building, Pick Your Part, Inc. Pier 70, Iris Environmental, July 13, 2004, Iris Environmental, July 13, 2004.

Soil Remediation Report, Pick Your Part, Inc. Pier 70, Iris Environmental, December 12, 2001, Iris Environmental, December 12, 2001.

Soil Remediation Report, Pick Your Part, Inc., Pier 70, Iris Environmental, December 12, 2000.

Soils Analysis Report And Mitigation Plan For The City Tow Facility; Pier 70, San Francisco, Ca, San Francisco Department Of Public Health, July 29, 2002.

Soils Analysis Report And Mitigation Plan, City Tow, Pier 70, Iris Environmental, 7/10/02.

Soils Analysis Report And Mitigation Plan; City Tow; Pier 70, San Francisco Pr0249798, San Francisco Department Of Public Health, October 10, 2002.

Soils Analysis Report And Site Mitigation Plan, Pick Your Part, Inc. [City Tow], Pier 70, Iris Environmental, July 10, 2002, Iris Environmental, July 10, 2002.

Submittals For: Pier 70, Corner Of 20th And Illinois, Bluewater Environmental Services, 1992-1996.

Subsurface Investigation At Illinois And 20th Streets (Site), Tetra Tech, Inc., 4/13/99.

Subsurface Investigation For Port Of San Francisco, Pier 70. Tetra Tech, Inc., December 1997, Tetra Tech, Inc., December 1997.

Subsurface Investigation, Pier 70, Tetra Tech, Inc., December 1997.

Summary Report: Asbestos And Lead-Based Paint Survey, Pier 70, Buildings 36, 40, 101, 102, 104 And 109, 20th And Illinois Streets, Sca Environmental, Inc., May 1998.

Summary Report: Bulk Asbestos And Exterior Paint Survey, Pier 70, Building 104, Sca Environmental, Inc., October 1999.

Summary Report: Bulk Asbestos And Lead-Based Paint Survey, Building 111, Pier 70, Sca Environmental, Inc., March 1995.

Summary Report: Bulk Asbestos And Lead-Based Paint Survey, Pier 70 Crane #30, Sca Environmental, Inc., February 1996.

Summary Report: Hazardous Materials Assessment, Port of SF Pier 70 Building 21, Sca Environmental, Inc., 4/2008.

Supplement Investigation Report Former Car Crusher Building Former City Tow- Pier 70, Iris Environmental, March 3, 2005.

Survey For Asbestos And Lead-Based Paint; Noonan Building (Building #11); Pier 70; Sca Project No: B-7265, Sca Environmental, Inc., 9/2/2005.

Pier 70 Site Investigation and Risk Assessment Report, Treadwell and Rollo, June 2010.

Seawall Lot 349

Analysis Of Bay Discharge, North Embarcadero Roadway Project, Camp Dresser & Mckee, 9/27/94.

Bunker Oil Characterization, North Embarcadero Roadway And F-Line Extension, Camp Dresser & Mckee, 12/29/95.

Embarcadero Roadway Urban Design Project, Hazardous Waste Investigation, Site History Report, Bechtel Environmental, Inc., August 11, 1989.

Embarcadero Roadway Urban Design Project, Rincon Point Block, Sampling And Testing Plan, Geo/Resource Consultants, Inc., October 16, 1989.

Geotechnical Investigation, Mariposa Storage/Transport Facilities, Ags, Inc., June 1989.

Groundwater Data Summary And Request To Rescind Waste Discharge Requirements; Pier 70 (Order 87-060) And Pier 94 (Order 87-061 Disposal Sites / Port Of San Francisco, Port Of San Francisco, August 17, 1999.

Hazardous Materials Monitoring And Management Plans, Mariposa Facilities Project, Erm-West, Inc., 1/31/92.

Railway Track Ballast Survey, Sampling Results And Summary, North Embarcadero Roadway Project, Cky Environmental Service, 3/1/93.

Site History Report, Embarcadero Roadway Urban Design Project, Hazardous Waste Investigation, Appendix Iv, Agency Site Files, Volume 1 Of 4, Bechtel Environmental, Inc., August 1989.

Site History Report, Embarcadero Roadway Urban Design Project, Hazardous Waste Investigation, Appendix Iv, Agency Site Files, Volume 3 Of 4, Bechtel Environmental, Inc., August 1989.

Site History Report, Embarcadero Roadway Urban Design Project, Hazardous Waste Investigation, Appendix Iv, Agency Site Files, Volume 4 Of 4, Bechtel Environmental, Inc., August 1989.

The Industrial History Of The Proposed Mariposa Facilities Project Area, Erm-West, Inc., August 1989.

Waste Classification Application, Embarcadero Roadway Project, Baseline Environmental Consulting, April 1993.

Waste Classification, Embarcadero Roadway Project (Waste Classification Unit File Number F134), Baseline Environmental Consulting, August 9, 1993.

File No. 140093

FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL
(S.F. Campaign and Governmental Conduct Code § 1.126)

City Elective Officer Information *(Please print clearly.)*	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors

Contractor Information *(Please print clearly.)*	
Name of contractor: AutoReturn	
John Wicker (CEO and Board Member); Kacy Rozelle (Board Member), Robert Reddy (Board Member), Gene Washington (Board Member), George Hoyem (Board Member),Raymond Krouse (CFO).	
Contractor address: 375 Alabama Street, Suite 300, San Francisco, CA 94110	
Date that contract was approved: *(By the SF Board of Supervisors)*	Amount of contracts: Per formula
Describe the nature of the contract that was approved: Contractor provides towing, storage, lien sale and auctions services for illegally parked and abandoned vehicles on behalf of the SFMTA and the SFPD.	
Comments: This is a revenue contract; SFMTA does not pay the contractor for services. The contractor collects a fee from the public for towing services; and in addition, has paid the SFMTA for administrative (PCOs, etc.) and referral fees, and an annual 1% of gross revenue for all monies collected. As of FY2013, this amount totals $58,982,284.	

This contract was approved by (check applicable):

☐ the City elective officer(s) identified on this form

☑ a board on which the City elective officer(s) serves: San Francisco Board of Supervisors
Print Name of Board

☐ the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

_____
Print Name of Board

Filer Information *(Please print clearly.)*	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

_____ _____
Signature of City Elective Officer (if submitted by City elective officer) Date Signed

_____ _____
Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk) Date Signed