

OFFICE LEASE

between

CITY AND COUNTY OF SAN FRANCISCO,  
as Landlord

and

Faces SF,  
a California nonprofit public benefit corporation,  
as Tenant

For the lease of  
Suites 202, 205, 206 and a portion of Suite 201A  
located at  
1099 Sunnysdale Ave., San Francisco, California

July 1, 2018

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- EXHIBIT B – Utilities and Services
- EXHIBIT C – Rules and Regulations
- EXHIBIT D – First Source Hiring Agreement

## OFFICE LEASE

THIS OFFICE LEASE (this "Lease"), dated for reference purposes only as of July 1, 2018, is between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), and FACES SF, a California nonprofit public benefit corporation ("Tenant").

City and Tenant hereby covenant and agree as follows:

### 1. BASIC LEASE INFORMATION

The following is a summary of basic lease information (the "Basic Lease Information"). Each item below incorporates all of the terms in this Lease related to that item. If there is any conflict between the information in this Section and any more specific provision of this Lease, the more specific provision will control.

Lease Reference Date:	July 1, 2018
Landlord:	CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation
Tenant:	Faces SF and permitted successors and assigns
Building ( <u>Section 2.1</u> ):	Building located at 1099 Sunnydale Ave., San Francisco, California
Premises ( <u>Section 2.1</u> ):	Space on the 2nd floor of the Building, designated as Suites 202, 205, 206 and a portion of 201A and the closet labeled 208 on the second floor of the Building as depicted on the floor plan(s) attached as <u>Exhibit A</u> .
Rentable Area of Premises ( <u>Section 2.1</u> ):	Approximately 2,259 leasable square feet
Term ( <u>Section 3.1</u> ):	Commencement Date: July 1, 2018  Expiration date: The day before the one-year anniversary of the Commencement Date, unless sooner terminated or extended in accordance with the provisions of this Lease.  Year-to-year extensions up to June 30, 2022
Base Rent ( <u>Section 4.1</u> ):	Annual Base Rent: \$31,808.16 (\$1.18 per sq. ft.) Monthly payments: \$2,650.68

Rent Adjustment Dates (Section 4.2): Annually on the commencement date of each Extension Term, if any, there shall be an adjustment to Base Rent based on the formula set forth in Section 4.2.

Use (Section 5.1): The premises will be used for the following community service programs: Provide employment based services to job seekers including career counseling and job search assistance (Visitacion Valley One Stop).

Tenant Improvements (Section 6.1): None

Utilities and Services (Section 10.1): City will provide basic utilities and services to Premises in accordance with Section 10.1.

Security Deposit (Section 23): None

Notice Address of City (Section 28.1): Real Estate Division  
25 Van Ness Avenue, Suite 400  
San Francisco, California 94102  
Attn: Director of Property  
Re: 1099 Sunnydale Ave., Suites 202, 205, 206, and a portion of Suite 201A  
Fax No.: (415) 552-9216

with a copy to: Department of Public Health  
101 Grove Street  
San Francisco, CA 94102  
Attn: Lisa Zayas-Chien, Project Manager

and to: Office of the City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102-4682  
Attn: Real Estate Team Leader Re: 1099 Sunnydale Avenue  
Fax No.: (415) 554-4757

Key Contact for City: Lisa Zayas-Chien, Project Manager

Telephone No.: 415-554-2889

Alternate Contact for City: Marta A. Bayol

Telephone No.: 415-554-9865

Address for Tenant (Section 28.1): 1101 Masonic Avenue  
San Francisco, CA 94117



Key Contact for Tenant: Lawland Long  
Telephone No.: 415-567-2357, Ext. 118  
Alternate Contact for Tenant: None  
Brokers (Section 28.8): None

## 2. PREMISES; AS IS CONDITION

### 2.1 Lease Premises

(a) Subject to the provisions of this Lease, City leases to Tenant and Tenant leases from City those premises in the building identified in the Basic Lease Information (the “**Building**”) and shown on the floor plan(s) attached as Exhibit A (the “**Premises**”). The Premises are located on the floor(s) of the Building specified in the Basic Lease Information. The leasable area of the Premises specified in the Basic Lease Information will be conclusive for all purposes. The Building, the land upon which the Building is located, and all other improvements on and appurtenances to the land are referred to collectively as the “Property.” Tenant has the non-exclusive right to use, together with other tenants in the Building, the lobbies, corridors, elevators, stairways, other public areas of the Building and the Property (collectively, the “**Common Areas**”) and the kitchen areas, restrooms, copy rooms, and conference room (the “**Shared Facilities**”) subject to the Building Rules and Regulations, as defined in Section 22 (Rules and Regulations) and the policies established by the Facility Manager, as defined in Subsection 2.1(b), and the non-exclusive right of access to and from the Premises by the main entrances to the Building and the Property.

(b) **Facility Manager.** Landlord’s facility manager (“**Facility Manager**”) will maintain the master calendar for the conference rooms and any other Shared Facilities of the Building that may be reserved by tenants. Tenant shall comply with the Facility Manager’s requirements regarding the advance reservation and use of the Shared Facilities and the use of the Shared Facilities and Common Areas. Tenant will refer any questions and concerns regarding the use of the Shared Facilities and Common Areas to the Facility Manager. In the event of a dispute between Tenant and any other occupant concerning the use of any Shared Facilities or Common Areas, Tenant will cooperate in good faith with the Facility Manager to resolve such dispute, including meeting and conferring with the Facility Manager and the other occupant(s) to reach an amicable solution.

### 2.2 Accessibility Disclosures

(a) California Civil Code Section 1938 requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist (“**CASp**”) to determine whether the property meets all applicable construction-related accessibility requirements. The law does not require landlords to have the inspections performed. Tenant is advised that the Premises have not been inspected by a CASp. A CASp can inspect the Premises and determine if they comply with all the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the Premises, City may not prohibit Tenant from obtaining a CASp inspection of the Premises for the occupancy or potential occupancy of Tenant if requested by Tenant. City and Tenant will

mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the CASp inspection fee, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises.

(b) Tenant acknowledges that before the execution of this Lease, City provided Tenant with, and Tenant signed, the Disability Access Obligations Notice described in Section 38.3 of the San Francisco Administrative Code. Tenant and City each agree to use reasonable efforts to notify the other party if making any Alterations (as defined in Section 7.1 (Tenant's Alterations)) that might impact accessibility to the Premises under any disability access Legal Requirements (as defined in Section 11.1 (Compliance with Laws)).

### 2.3 As Is Condition

TENANT ACKNOWLEDGES AND AGREES THAT THE PREMISES ARE BEING LEASED AND ACCEPTED IN THEIR "AS IS" CONDITION, WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, AND SUBJECT TO ALL APPLICABLE LEGAL REQUIREMENTS (AS DEFINED IN SECTION 11.1 BELOW) GOVERNING THEIR USE, OCCUPANCY, AND POSSESSION. TENANT REPRESENTS AND WARRANTS TO CITY THAT TENANT HAS INVESTIGATED AND INSPECTED, EITHER INDEPENDENTLY OR THROUGH AGENTS OF TENANT'S OWN CHOOSING, THE CONDITION OF THE PREMISES AND THE SUITABILITY OF THE PREMISES FOR TENANT'S INTENDED USE. TENANT HAS DETERMINED, BASED SOLELY ON ITS OWN INVESTIGATION, THAT THE PREMISES ARE SUITABLE FOR TENANT'S BUSINESS AND INTENDED USE. TENANT ACKNOWLEDGES AND AGREES THAT NEITHER CITY NOR ANY OF ITS AGENTS HAVE MADE, AND CITY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE RENTABLE AREA OF THE PREMISES, THE PHYSICAL OR ENVIRONMENTAL CONDITION OF THE PREMISES OR THE PROPERTY, THE PRESENT OR FUTURE SUITABILITY OF THE PREMISES FOR TENANT'S BUSINESS, OR ANY OTHER MATTER WHATSOEVER RELATING TO THE PREMISES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## 3. ENERGY CONSUMPTION DISCLOSURE.

Tenant consents to Tenant's utility service providers disclosing energy use data for the Premises to City for use under California Public Resources Code Section 25402.10, as implemented under California Code of Regulations Sections 1680-1685, and San Francisco Environment Code Chapter 20, as they may be amended from time to time ("**Energy Consumption Reporting Laws**"), and for such data to be publicly disclosed under the Energy Consumption Reporting Laws.

## 4. TERM

### 4.1 Lease Term

The Premises are leased for a term of one (1) year, (the "**Term**") commencing on the date specified in the Basic Lease Information as the commencement date (the "**Commencement Date**") and ending on the expiration date (the "**Expiration Date**") specified in the Basic Lease Information, unless sooner terminated or extended as provided in this Lease. The Term and Expiration Date will be automatically extended on a year-to-year basis (each, an "**Extended Term**") unless either party delivers a termination notice to the other no less than sixty (60) days before the then-applicable Expiration Date, provided that in no event may the Expiration Date be extended beyond June 30, 2022. In addition, (i) City will have the right to terminate the Lease without penalty at any time upon delivery of one hundred twenty (120) days' prior written notice to Tenant, and (ii) Tenant shall have the right to terminate this Lease without penalty upon

delivery of ninety (90) days' prior written notice to City if Tenant experiences or reasonably anticipates experiencing a substantial reduction in operational funding.

#### **4.2 Continued Occupancy**

Tenant acknowledges and agrees that its possession of the Premises commencing on the Commencement Date is a continuation of Tenant's possession of the Premises under the Building and Property Lease dated as of June 13, 2013, as amended by the Lease Amendment dated August 22, 2014. Tenant is familiar with the condition of the Premises, and Tenant agrees to accept the Premises as of the Extended Term Commencement Date in their existing condition, "as is," without any obligation of Landlord to repair, remodel, improve, or alter the Premises, to perform any other construction or other work of improvement upon the Premises or to provide Tenant with any construction or refurbishing allowance whatsoever. As of the date of this Lease, Tenant represents and warrants to Landlord that Tenant is not aware of any dangerous conditions or other defects existing in or about the Premises or the project of which the Premises are a part, and that, unless Tenant provides Landlord with written notice to the contrary before the Commencement Date, such representation and warranty shall be true on and as of the Commencement Date as if the same were made on and as of such date.

### **5. RENT**

#### **5.1 Base Rent**

Throughout the Term beginning on the Commencement Date, Tenant will pay to City the annual Base Rent specified in the Basic Lease Information, which will increase annually under Section 4.2 (Adjustments in Base Rent) (the "**Base Rent**"). The Base Rent will be paid to City in advance, without prior demand and without any deduction, setoff, or counterclaim whatsoever, in equal consecutive monthly payments on or before the first day of the Term and on or before the first day of each month thereafter. All sums payable by Tenant to City must be paid in cash or by good funds (cashier's or certified check) to the City and County of San Francisco in care of the Director of Property at the primary address for City specified in the Basic Lease Information, or such other place as City may designate in writing. If City permits Tenant to pay by personal or business check and the check is not honored, then City may require Tenant to make all future payments in cash or by cashier's check. If the Commencement Date occurs on a day other than the first day of a calendar month, or the Expiration Date occurs on a day other than the last day of a calendar month, then the Base Rent for the partial month will be prorated based on a thirty (30) day month. Within five (5) days after the parties execute this Lease, Tenant will pay to City the Base Rent for the first full month.

#### **5.2 Adjustments in Base Rent**

On each date specified in the Basic Lease Information for adjustment of the Base Rent (an "**Adjustment Date**"), the Base Rent payable under this Lease will be adjusted as follows:

(a) The Consumer Price Index Urban Wage Earners and Clerical Workers (base years 1982-1984 = 100) for San Francisco-Oakland-San Jose area published by the United States Department of Labor, Bureau of Labor Statistics ("**Index**") published most immediately preceding the Adjustment Date ("**Adjustment Index**"), will be compared with the Index published most immediately preceding the Commencement Date ("**Beginning Index**").

(b) If the Adjustment Index has increased over the Beginning Index, the Base Rent payable on and after the Adjustment Date will be set by multiplying the Base Rent by a

fraction, the numerator of which is the Adjustment Index and the denominator of which is the Beginning Index. In no event will the monthly Base Rent on or after the Adjustment Date be less than one hundred three percent (103%) or more than one hundred six percent (106%) of the monthly Base Rent in effect immediately before the Adjustment Date (disregarding any temporary rental abatement that may then be in effect). If the Index is changed so that the base year differs from that used as of the date most immediately preceding the Commencement Date, City will convert the Index in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the Term, another government index or computation that replaces it will be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

### **5.3 Additional Charges**

Tenant will pay to City all charges and other amounts required under this Lease as additional rent, whether or not those amounts are specifically characterized as rent (collectively, “**Additional Charges**”). All Additional Charges will be payable to City at the same place and the same manner as the Base Rent. City will 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 term “Rent” means Base Rent and Additional Charges.

### **5.4 Late Charges**

Each time Tenant fails to pay any Rent or any portion of Rent within five (5) days following the due date, the unpaid amount will be subject to a late payment charge equal to six percent (6%) of the unpaid amount. City and Tenant, have agreed on the late payment charge, after negotiation, as a reasonable estimate of the additional administrative costs and detriment that City will incur due any failure by Tenant to timely pay Rent, the actual costs thereof being extremely difficult if not impossible to determine. Tenant will pay the late charge to City together with the unpaid amount.

### **5.5 Default Interest**

Any Rent, if not paid within five (5) days after the due date, will bear interest from the due date until paid at ten percent (10%) per year or, if a higher rate is legally permissible, at the highest rate an individual is permitted to legally charge (the “**Interest Rate**”). Interest will not be payable on late charges or on any amounts on which late charges are paid by Tenant to the extent this interest would cause the total interest to be more than lawfully permitted. Payment of interest will not excuse or cure any default by Tenant.

### **5.6 Costs of Collection**

In addition to any interest or late charges, if Tenant does not pay Rent in immediately available funds or by good check (if Tenant is permitted to pay by personal or business check), then Tenant will pay to City immediately upon demand as Additional Charges the amount of any fees, charges, or other costs incurred by City, including, but not limited to, dishonored check fees and any costs of collection.



## 6. USE

### 6.1 Permitted Use

Tenant will use and continuously occupy the Premises during the Term solely for general office use and for the uses, if any, as specified in the Basic Lease Information (the “**Permitted Use**”), and for no other purpose. Tenant acknowledges that that this prohibition on the change in use is expressly authorized by California Civil Code section 1997.230 and is fully enforceable.

### 6.2 No Unlawful Uses, Nuisances or Waste

Without limiting the foregoing, Tenant may not use, occupy, or permit the use or occupancy of any of the Premises that would violate any Legal Requirements (whether state or federal) or for any illegal purpose, or permit any offensive, noisy, or hazardous use or any waste on or about the Premises. Tenant will take all precautions to eliminate any nuisances or hazards relating to its activities on or about the Premises. Tenant may not conduct any business, place any sales display, or advertise in any manner in areas outside the Premises, Building, or on or about the Property.

### 6.3 Local Hiring Requirements

(a) Any undefined, initially-capitalized term used in this Section have the meaning given to that term in San Francisco Administrative Code Section 23.62 (the “**Local Hiring Requirements**”). Alterations (as defined in Section 7.1) are subject to the Local Hiring Requirements unless the cost for the work is (i) estimated to be less than \$750,000 per building permit or (ii) meets any of the other exemptions in the Local Hiring Requirements. Tenant will comply with the Local Hiring Requirements to the extent applicable. Before starting any Tenant Improvement Work or any Alteration, Tenant must contact City’s Office of Economic Workforce and Development (“**OEWD**”) to verify if the Local Hiring Requirements apply to the work (i.e., whether the work is a “Covered Project”).

(b) Tenant will include, and will require its subtenants to include, a requirement to comply with the Local Hiring Requirements in any contract for a Covered Project with specific reference to San Francisco Administrative Code Section 23.62. Each contract must name the City and County of San Francisco as a third party beneficiary for the limited purpose of enforcing the Local Hiring Requirements, including the right to file charges and seek penalties. Tenant will cooperate, and require its subtenants to cooperate, with the City in any action or proceeding against a contractor or subcontractor that fails to comply with the Local Hiring Requirements when required. Tenant’s failure to comply with its obligations under this Section will constitute a material breach of this Lease. A contractor’s or subcontractor’s failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.62 against the breaching party.

### 6.4 Prevailing Wages and Working Conditions

(a) Any undefined, initially-capitalized term used in this Section has the meaning given to that term in San Francisco Administrative Code Section 23.61. Tenant will require its Contractors and Subcontractors performing (i) labor in connection with a “public work” as defined under California Labor Code Section 1720 *et seq.* (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling work if paid for in whole or part out of public funds) or (ii) Covered Construction, at the Premises to (1) pay workers performing that work not less than the Prevailing Rate of Wages, (2) provide the same hours, working conditions, and benefits as in each case are provided for

similar work performed in San Francisco County, and (3) employ Apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, “**Prevailing Wage Requirements**”). Tenant will cooperate with the City in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements.

(b) Tenant will include, and will require its subtenants, and Contractors and Subcontractors (regardless of tier), to include the Prevailing Wage Requirements and the agreement to cooperate in City enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.61. Each Construction Contract must name the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any Contractor or Subcontractor in accordance with San Francisco Administrative Code Section 23.61. Tenant’s failure to comply with its obligations under this Section will constitute a material breach of this Lease. A Contractor’s or Subcontractor’s failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching party. For the current Prevailing Rate of Wages, see [www.sfgov.org/olse](http://www.sfgov.org/olse) or call the City’s Office of Labor Standards Enforcement at 415-554-6235.

(c) Tenant will also pay, and will require its subtenants, and Contractors and Subcontractors (regardless of tier) to pay, the Prevailing Rate of Wage for the following activities on the Premises as set forth in and to the extent required by San Francisco Administrative Code Chapter 21C: a Public Off-Street Parking Lot, Garage or Automobile Storage Facility (as defined in Section 21C.3), a Show (as defined in Section 21C.4), a Special Event (as defined in Section 21C.8), Broadcast Services (as defined in Section 21C.9), Commercial Vehicles, Loading and Unloading for Shows and Special Events (as defined in Section 21C.10), and Security Guard Services for Events (as defined in Section 21C.11).

## 7. ALTERATIONS

### 7.1 Tenant’s Alterations

(a) **General.** Tenant will not make or permit any alterations to the Building or to the heating, ventilating, air conditioning, plumbing, electrical, fire protection, life safety, security, and other mechanical, electrical, communications systems of the Building (“**Building Systems**”), and will not make or permit any alterations, installations, additions or improvements, structural or otherwise (collectively, “**Alterations**”), in, to or about the Premises, without City’s prior written consent in each instance. All Alterations will be done at Tenant’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. With respect to any Alterations which would be visible from the exterior of the Building, Tenant, must obtain the prior written approval of City’s Arts Commission to the extent the Arts Commission has jurisdiction over the design of the proposed alterations under City’s Charter Section 5.103. If the cost of any Alterations is in excess of Five Thousand Dollars (\$5,000), then Tenant must pay to City an administrative fee equal to ten percent (10%) of the total “hard” costs of the work to compensate City for the costs of review.

(b) **Asbestos.** Without limiting Section 26.2 (No Hazardous Materials) below, if it is determined that asbestos-containing materials (“**ACM**”) exist in or about the Premises, Tenant must ensure that all Alterations and any asbestos related work, as defined in California

Health & Safety Code Section 25914.1(b), is performed in compliance with all Legal Requirements relating to asbestos, including but not limited to California Occupational Safety and Health (OSHA) regulations found in Title 8 of the California Code of Regulations, Sections 1502 and 1529. Additionally, Tenant will distribute notifications to all employees and contractors as required under California Health & Safety Code Section 25915 et seq. informing them of the existence of ACM and that moving, drilling, boring, or otherwise disturbing ACM may present a health risk and should not be attempted by an unqualified employee. No Alterations affecting ACM-containing areas or any asbestos related work may be performed without City's prior written consent in each instance.

(c) **Prevailing Wage and Local Hiring Requirements.** Tenant and its subtenants must comply with the applicable requirements of Section 6.3(Local Hiring Requirements) and Section 6.4 (Prevailing Wages and Working Conditions) above.

(d) **Alterations that Disturb or Remove Lead-Based Paint.** Tenant, on behalf of itself and its Agents or Invitees, must comply with all requirements of the San Francisco Building Code, Section 3407, and all other Legal Requirements, including, without limitation, the California and United States Occupational Health and Safety Acts and their implementing regulations, when the work of improvement or alteration disturbs or removes exterior lead-based or presumed lead-based paint (as defined below). Tenant and its Agents or Invitees will give to City three (3) business days prior written notice of any disturbance or removal of exterior lead-based or "presumed" lead-based paint. Further, Tenant and its Agents or Invitees, when disturbing or removing exterior lead-based or presumed lead-based paint, may not use or cause to be used any of the following methods: (a) acetylene or propane burning and torching; (b) scraping, sanding or grinding without containment barriers or a High Efficiency Particulate Air filter ("HEPA") local vacuum exhaust tool; (c) hydroblasting or high-pressure wash without containment barriers; (d) abrasive blasting or sandblasting without containment barriers or a HEPA vacuum exhaust tool; and (e) heat guns operating above 1,100 degrees Fahrenheit. Paint on the exterior of buildings built before December 31, 1978, is presumed to be lead-based paint unless lead-based paint testing, as defined in Section 3407 of the San Francisco Building Code, demonstrates an absence of lead-based paint on the exterior surfaces of the buildings. Under this Section, lead-based paint is "disturbed or removed" if the work of improvement or alteration involves any action that creates friction, pressure, heat, or a chemical reaction upon any lead-based or presumed lead-based paint on an exterior surface so as to abrade, loosen, penetrate, cut through, or eliminate paint from that surface. Notice to City under this Lease will not constitute notice to the City's Department of Building Inspection required under San Francisco Building Code section 3407.

## 7.2 Title to Improvements

Except for Tenant's Personal Property (as described in the next section), or as may be specifically provided to the contrary in the approved Plans, all appurtenances, fixtures, improvements, equipment, additions, and other property attached or affixed to or installed in the Premises at the Commencement Date or during the Term, including, without limitation, the Tenant Improvements and any Alterations, will be and remain City's property. Tenant may not remove any of City's property at any time during or after the Term unless City so requests as further provided in Section 24 (Surrender of Premises) below.



### **7.3 Tenant'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 Tenant, without expense to City, and that can be removed without structural or other damage to the Premises (collectively, "**Tenant's Personal Property**") will be and remain Tenant's property. Tenant may remove its Personal Property at any time during the Term, subject to the provisions of Section 24 (Surrender of Premises) below. Tenant will pay any taxes or other impositions levied or assessed upon Tenant's Personal Property, at least ten (10) days before delinquency, and deliver satisfactory evidence of that 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 or any other part of the Building or the Building Systems, provided that the alterations or additions do not materially adversely affect the functional utilization of the Premises for the Permitted Use.

## **8. REPAIRS AND MAINTENANCE**

### **8.1 City's Repairs**

City will repair and maintain the structural portions of the Building, including the Building Systems, the elevators and the common areas; provided, however, Tenant will reimburse City for any damage, excluding normal wear and tear, caused by any act or omission of Tenant, its Agents or Invitees (as those terms are defined in Section 28.5 (Parties and Their Agents; Approvals) below). In making those repairs, City may use structures in the Premises where reasonably required, provided that the work may not block the main entrance to the Premises or unreasonably interfere with Tenant's business. Tenant waives any claim for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, or any other loss occasioned thereby.

### **8.2 Tenant's Repairs**

Tenant will maintain, at no expense to City, the Premises (including, without limitation, the floors, interior plumbing, electrical wiring, fixtures, and equipment) in good repair and working order and in a clean, secure, safe, and sanitary condition. Tenant will promptly make all repairs and replacements: **(a)** at no cost to the City, **(b)** by licensed contractors or qualified mechanics approved by City, **(c)** so that the repairs and replacements will 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 operations, use, or occupation of the Building or the Building Systems, and **(e)** in accordance with any applicable Building Rules and Regulations (as defined in Section 22 (Rules and Regulations)) and all applicable Legal Requirements. If the cost of any those repairs or replacements is in excess of Five Thousand Dollars (\$5,000) in any instance and is due to acts or omissions of Tenant, its Agents, or Invitees, then Tenant will pay to City an administrative fee equal to ten percent (10%) of the total "hard" costs of the work. Tenant 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 Legal Requirements now or later in effect.



## **9. LIENS AND ENCUMBRANCES**

### **9.1 Liens**

Tenant must 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 Tenant. If Tenant does not, within five (5) days after the imposition of any lien, cause the lien to be released of record by payment or posting a bond, City will have, in addition to all other remedies, the right, but not the obligation, to cause the lien to be released in any way it deems proper, including, but not limited to, payment of the claim giving rise to the lien. All sums paid by City and all expenses incurred by it in connection with releasing the lien (including, without limitation, reasonable attorneys' fees) will be payable by Tenant to City upon demand. City will have the right to post on the Premises any notices that City may deem proper for the protection of City, the Premises, and the Building, from mechanics' and material supplier's liens. Tenant must give to City at least fifteen (15) days' prior written notice of commencement of any Alteration, repair, or construction on the Premises. Tenant will indemnify, defend, and hold City and its Agents harmless from and against any claims for mechanic's, material supplier's, or other liens in connection with any Alterations, repairs, or construction on the Premises, or materials furnished or obligations incurred by or for Tenant.

### **9.2 Encumbrances**

Tenant may not create, permit, or suffer any liens or encumbrances affecting any portion of the Premises, the Property, or City's interest in the Property or under this Lease.

## **10. UTILITIES AND SERVICES**

### **10.1 Utilities and Services**

City will provide the basic Building utilities and services described in the attached Exhibit B (the "**Standard Utilities and Services**") to the Premises, subject to the terms and conditions contained therein. Tenant will be responsible for furnishing, at no cost to the City, any utilities or services that Tenant may need for its use of the Premises other than or in excess of the Standard Utilities and Services.

### **10.2 Water and Energy Conservation; Mandatory or Voluntary Restrictions**

If any Legal Requirements imposes mandatory or voluntary controls on City or the Property or any part of it, relating to the use or conservation of energy, water, gas, light, or electricity or the reduction of automobile or other emissions, or the provision of any other utility or service provided with respect to this Lease, or if City is required or elects to make alterations to any part of the Building in order to comply with mandatory or voluntary controls or guidelines, then that compliance and making any related alterations will not entitle Tenant to any damages, relieve Tenant of the obligation to pay the full Rent or to perform each of its other covenants under the Lease, or constitute or be construed as a constructive or other eviction of Tenant. City will have the right at any time to install a water meter in the Premises or to otherwise measure the amount of water consumed on the Premises, and Tenant will pay for the cost of the meter or other means of measurement, and its installation and maintenance.

### **10.3 Excess Use**

If Tenant requires any utilities or services to be provided by City in excess of the Standard Utilities and Services for the Premises, Tenant must first procure City's written

consent, which City may give or withhold in its sole discretion. If City consents, then Tenant will pay to City, as Additional Charges, the cost of the excess usage. Failure of City to bill Tenant for excess utilities or services will not impair City's right to bill Tenant for the costs at a later date. Without limiting the foregoing, Tenant will not: (a) connect or use any apparatus, device, or equipment that will require a dedicated circuit or that will impair the proper functioning or capacity of the Building Systems; or (b) connect any apparatus, device, or equipment through electrical outlets except in the manner the outlets are designed and without the use of any device intended to increase the plug capacity of any electrical outlet (such as power strips); or (c) maintain at any time an electrical demand load over the amount specified in the Rules and Regulations. If at any time City has reason to believe that Tenant may be using any utility or service in excess of the amount allowed to the Premises under the Standard Building Utilities or Services, City will have the right to install a separate meter in the Premises or to take other appropriate steps to measure the amount of utility or service used in the Premises, and Tenant will pay for the cost of the meter or other means of measurements, and its installation and maintenance.

#### **10.4 Floor Load**

Tenant will not place or install in the Premises any equipment that weighs more than the normal load-bearing capacity of the floors of the Building without City's prior written consent, which City may give or refuse in its sole discretion. If City consents to the placement or installation of any overweight machine or equipment in the Premises, Tenant, at no cost to the City, must reinforce the floor of the Premises, under plans and specifications approved by City and otherwise in compliance with Section 7.1 (Tenant's Alterations), to the extent necessary to assure that no damage to the Premises or the Building or weakening of any structural supports will occur due to Tenant's overweight machine or equipment.

#### **10.5 Interruption of Services**

City's obligation to provide utilities and services for the Premises are subject to the Rules and Regulations of the Building, applicable Legal Requirements (as defined in Section 11.1 below) (including the rules or actions of the public utility company furnishing the utility or service), and shutdowns for maintenance and repairs, for security purposes, or due to strikes, lockouts, labor disputes, fire or other casualty, acts of God, or other causes beyond the control of City. In the event of an interruption in, or failure or inability to provide any service or utility for the Premises for any reason, the interruption, failure, or inability will not constitute an eviction of Tenant, constructive or otherwise, or impose upon City any liability whatsoever, including, but not limited to, liability for consequential damages or loss of business by Tenant; provided, however, that if the interruption, failure, or inability impairs Tenant's ability to carry on its business in the Premises for a period of five (5) or more consecutive business days, then Tenant will have the right, as Tenant's sole remedy, to abate the Rent based on the extent the interruption, failure, or inability impairs Tenant's ability to carry on its business in the Premises. Tenant hereby waives the provisions of California Civil Code Section 1932(1) or any other applicable existing or future Legal Requirement permitting the termination of this Lease due to the interruption, failure, or inability.

#### **10.6 Capital Improvements**

Tenant will reimburse City for its pro rata share of the reasonable cost of any capital improvements made to the Building as a labor-saving or energy saving device or to effect other

economies in the operation or maintenance of the Building, or made to the Building after the date of this Lease that are required under any Legal Requirement that was not applicable to the Building at the time that permits for the construction were obtained. The cost will be amortized over a reasonable period as determined by City, together with interest on the unamortized balance at the rate of ten percent (10%) per annum.

## **11. COMPLIANCE WITH LAWS AND RISK MANAGEMENT REQUIREMENTS**

### **11.1 Compliance with Laws**

Tenant shall promptly comply, at no cost to the City, with all present or future laws, ordinance, resolution, regulation, requirement, proclamation, order or decree of any municipal, county, state or federal government or other governmental or regulatory authority relating to the Premises or the use or occupancy thereof (the “**Legal Requirements**”) and with any and all recorded covenants, conditions and restrictions affecting the Property or any portion thereof, whether in effect at the time of the execution of this Lease or adopted or recorded at any time thereafter and whether or not within the present contemplation of the parties. Tenant further understands and agrees that it is Tenant’s obligation, at no cost to the City, to cause the Premises and Tenant’s uses thereof to be conducted in compliance with the Americans With Disabilities Act, 42 U.S.C. Section 12101 et seq. and any other applicable disability access laws. Tenant 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 the Tenant Improvements or any other Alterations, Tenant’s use of the Premises, or any act or omission of Tenant, its Agents or Invitees. Any Alteration made by or on behalf of Tenant under the provisions of this Section must comply with the provisions of Section 8.2 (Tenant’s Repairs) above. The parties acknowledge and agree that Tenant’s obligation to comply with all Legal Requirements is a material part of the bargained-for consideration under this Lease. Tenant’s obligation under this Section includes, without limitation, the responsibility of Tenant to make substantial or structural repairs and Alterations to the Premises (including any of the Tenant Improvements or any of Tenant’s Alterations), regardless of, among other factors, the relationship of the cost of curative action to the Rent under this Lease, the length of the then remaining Term hereof, the relative benefit of the repairs to Tenant or City, the degree to which the curative action may interfere with Tenant’s use or enjoyment of the Premises, the likelihood that the parties contemplated the particular Legal Requirements involved, and whether the Legal Requirements involved are related to Tenant’s particular use of the Premises.

### **11.2 Regulatory Approvals**

(a) **Responsible Party.** Tenant understands and agrees that Tenant’s use of the Premises and construction of the Tenant Improvements permitted hereunder may require authorizations, approvals or permits from governmental regulatory agencies with jurisdiction over the Premises. Tenant is solely responsible for obtaining all regulatory approvals. Tenant may not seek any regulatory approval without first obtaining the written consent of City. Tenant will bear all costs associated with applying for and obtaining any regulatory approval and is solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval; provided, however, any condition that could affect use or occupancy of the Property or City’s interest in the Property must first be approved by City in its sole discretion. Tenant must immediately pay and discharge any fines or penalties levied as a result of Tenant’s failure to comply with the terms and conditions of any regulatory approval, and City will have no liability, monetary or otherwise, for any fines or penalties. Tenant will Indemnify



City and the other Indemnified Parties hereunder against all Claims (as those terms are defined in Section 18.2 (Tenant's Indemnity) below) arising in connection with Tenant's failure to obtain or failure by Tenant, its Agents or Invitees to comply with the terms and conditions of any regulatory approval.

(b) City Acting as Owner of Real Property. Tenant further understands and agrees that City is entering into this Lease in its capacity as a property owner with a proprietary interest in the Premises and not as a regulatory agency with police powers. Nothing in this Lease shall limit in any way Tenant's obligation to obtain any required approvals from City officials, departments, boards, agencies, commissions, or other body having jurisdiction over the Premises. By entering into this Lease, City is not modifying or limiting Tenant's obligation to cause the Premises to be used and occupied in accordance with all applicable Legal Requirements.

### **11.3 Compliance with City's Risk Management Requirements**

Tenant will not do anything, or permit anything to be done, in or about the Premises that would be prohibited by or increase rates under a standard form fire insurance policy or subject City to potential premises liability. Tenant will faithfully observe, at no cost to the City, any and all requirements of City's Risk Manager with respect to Tenant's use and occupancy of the Premises.

## **12. SUBORDINATION**

This Lease is and will be subordinate to any reciprocal easement agreement, ground lease, facilities lease, or other underlying lease and the lien of any mortgage or deed of trust and all renewals, modifications, consolidations, replacements, and extensions of any of the foregoing, that may now exist or later be executed by City affecting the Property or City's interest in the Property, without the necessity of executing any instrument to effectuate the subordination. Notwithstanding the foregoing, City or the holder will, in its respective discretion, have the right not to subordinate those interests to this Lease. If any ground lease or underlying lease terminates for any reason or any mortgage or deed of trust is foreclosed or a conveyance in lieu of foreclosure is made for any reason, Tenant will attorn to the successor-in-interest to City, if desired by the successor-in-interest. The provisions of this Section are self-operative and no further instrument will be required. Tenant 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 Lease.

## **13. INABILITY TO PERFORM**

No actual or constructive eviction, in whole or in part, will entitle Tenant to any abatement or reduction of Rent or relieve Tenant from any of its obligations under this Lease. If City is unable to perform or is delayed in performing any of City's obligations under this Lease, 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, that inability or delay will not constitute an eviction under this Lease, or impose any liability upon City or its Agents because of the inconvenience, annoyance, interruption, injury, or loss to or interference with Tenant's business or use and occupancy or quiet enjoyment of the Premises or any other loss or damage. Tenant hereby waives and releases any right to terminate this Lease under Section 1932, subdivision 1 of the California Civil Code or any similar Legal Requirements now or later in effect.

## 14. DAMAGE AND DESTRUCTION

### 14.1 Damage and Destruction

(a) If the Premises or the Building is damaged by fire or other casualty, then City will repair the damage so long as (i) City does not elect to terminate the Lease (which City may do by giving written notice to Tenant of its election to do so within thirty (30) days after the date of the damage) and (ii) that funds for the repairs are appropriated by City's Board of Supervisors, in its sole discretion, for that purpose and (iii) the repairs can be made within two hundred ten (210) days after the date of the damage (the "Repair Period"). If those conditions are satisfied, this Lease will remain in full force and effect except that Tenant will be entitled to a proportionate reduction of Base Rent while the repairs are being made based upon the extent that the damage and the repairs materially interferes with Tenant's use or occupancy of the Premises.

(b) If City does not initially elect to terminate the Lease, City will use reasonable efforts to notify Tenant within ninety (90) days after the date of the damage whether or not the repairs can be made within the Repair Period, and City's determination will be binding on Tenant. If the repairs cannot be made within the Repair Period, City will have the option to notify Tenant of: (i) City's intention to repair the damage and diligently prosecute the repairs to completion within a reasonable period after the Repair Period, subject to the Board of Supervisor's appropriation of all necessary funds, in which case this Lease will continue in full force and effect and the Base Rent will be reduced as provided in subsection 14.1(a) above; or (ii) City's election to terminate this Lease as of the date specified in the notice, which date may not be less than thirty (30) or more than sixty (60) days after the notice is given by City. In case of termination, the Base Rent will be reduced as provided in subsection 14.1(a) above, and Tenant will pay that reduced Base Rent up to the termination date.

(c) If at any time during the last twelve (12) months of the Term, the Premises or the Building is damaged or destroyed, then either City or Tenant may terminate this Lease by giving written notice to the other party of its election to do so within thirty (30) days after the date of the damage; provided, however, Tenant may terminate only if the damage or destruction substantially impairs its use or occupancy of the Premises for the Permitted Use. The effective date of termination must be specified in the termination notice; which date may not be more than thirty (30) days after the date the notice is given.

(d) Notwithstanding anything to the contrary in this Lease, City will have no obligation to repair the Premises or the Building if the damage or destruction is attributable to any act or omission of Tenant, its Agents, or Invitees. City will never be required to repair any damage to Tenant's Personal Property or any paneling, decorations, railings, floor coverings, or any Tenant Improvements or Alterations installed or made on the Premises by or at the expense of Tenant. If the Premises or the Building is substantially damaged or destroyed and City intends to rebuild for public purposes inconsistent with this Lease, then City may terminate this Lease upon written notice to Tenant.

### 14.2 Waiver

City and Tenant intend that the provisions of this Section govern fully in the event of any damage or destruction and accordingly, City and Tenant each waives the provisions of Section 1932, subdivision 2, Section 1933, subdivision 4 and Sections 1941 and 1942, of the Civil Code of California or under any similar Legal Requirements now or later in effect.

## 15. EMINENT DOMAIN

### 15.1 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 any Legal Requirements. A Taking may occur under 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 that title to the portion of the Property taken passes to and vests in the condemnor or (ii) the date that Tenant is dispossessed.

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

(d) **“Improvements Pertaining to the Realty”** means machinery or equipment installed for use on the Property that cannot be removed without a substantial economic loss or without substantial damage to the Property, regardless of the method of installation. In determining whether particular machinery or equipment can be removed “without a substantial economic loss,” the value of the machinery or equipment in place and considered as part of the realty should be compared with its value if it were removed and sold.

### 15.2 General

If during the Term or during the period between the execution of this Lease and the Commencement Date, there is any Taking of all or any part of the Premises or any interest in this Lease, the rights and obligations of the parties under this Lease will be determined under this Section. City and Tenant intend that the provisions of this Section 15 govern fully in the event of a Taking and accordingly, the parties each 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 Legal Requirements now or later in effect.

### 15.3 Total Taking; Automatic Termination

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

### 15.4 Partial Taking; Election to Terminate

(a) If there is a Taking of any portion (but less than all) of the Premises, then this Lease will 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 untenable or unsuitable for continued use by Tenant, (B) the condition rendering the Premises untenable or unsuitable either is not curable or is curable but City is unwilling or unable to cure the condition, and (C) Tenant elects to terminate; or (ii) if City elects to terminate; provided, however, that this Lease will not terminate if Tenant agrees to, and does, pay full Rent, without abatement, and otherwise agrees to, and does, fully perform all of its obligations hereunder.

(b) If there is a partial Taking of a substantial portion of the Building but not the Premises, City will have the right to terminate this Lease in its entirety.

(c) Either party electing to terminate under the provisions of this Section 15 will do so by giving written notice to the other party before or within thirty (30) days after the

Date of Taking, and this Lease will terminate on the later of the thirtieth (30th) day after the written notice is given or the Date of Taking.

### **15.5 Termination of Lease; Rent and Award**

Upon termination of this Lease in its entirety under Section 15.3 (Total Taking; Automatic Termination), or under an election under Section 15.4 (Partial Taking, Election to Terminate) above, then: (a) Tenant's obligation to pay Rent will continue only up to the date of termination, and (b) City will be entitled to the entire Award (including, but not limited to, any portion of the Award made for the value of the leasehold estate created by this Lease and any Improvements Pertaining to the Realty). Tenant will have no claim against City for the value of any unexpired term of this Lease, but Tenant may make a separate claim with the condemnor for Tenant's relocation expenses or the interruption of or damage to Tenant's business or damage to movable Tenant's Personal Property, and Tenant will be entitled to a separate Award.

### **15.6 Partial Taking; Continuation of Lease**

If there is a partial Taking of the Premises and Lease is not terminated in its entirety under Section 15.4 (Partial Taking; Election to Terminate), then this Lease will terminate as to the portion of the Premises taken, but will remain in full force and effect as to the portion not taken, and the rights and obligations of the parties will be as follows: (a) Base Rent will be reduced by an amount that is in the same ratio to the Base Rent as the area of the Premises taken bears to the area of the Premises before the Date of Taking; provided, however, in no event will the monthly Base Rent be reduced to less than seventy-five percent (75%) of the monthly Base Rent immediately before the Date of Taking, and (b) City will be entitled to the entire Award (including, but not limited to, any portion of the Award made for the value of the leasehold estate created by this Lease). Tenant will have no claim against City for the value of any unexpired term of this Lease, but Tenant may make a separate claim with the condemnor for Tenant's relocation expenses or the interruption of or damage to Tenant's business, or damage to movable Tenant's Personal Property, and Tenant will be entitled to that separate Award.

### **15.7 Temporary Takings**

Notwithstanding anything to contrary in this Section, if there is a Taking of all or any part of the Premises for less than one hundred eighty (180) consecutive days, then (a) this Lease will not be affected by the temporary Taking; (b) Tenant will continue to pay Rent and perform all of the terms, conditions, and covenants of this Lease; (c) Tenant will be entitled to receive that portion of any Award for the use or occupancy of the Premises up to the total Rent owing by Tenant for the period of the Taking, and (d) City will be entitled to receive the balance, if any, of the Award.

## **16. ASSIGNMENT AND SUBLETTING**

### **16.1 Restriction on Assignment and Subletting**

Tenant may not directly or indirectly (including, without limitation, by merger, acquisition, or other transfer of any controlling interest in Tenant), voluntarily or by operation of law, sell, assign, encumber, pledge, or otherwise transfer any part of its interest in or rights with respect to the Premises or its leasehold estate hereunder (collectively, an "Assignment"), or permit or license any portion of the Premises to be used or occupied by anyone other than itself, or sublet any portion of the Premises (collectively, "Sublease"), without City's prior written consent in each instance, as provided below. Notwithstanding the foregoing, Tenant may Assign



this Lease or Sublet any or all portions of the Premises to any Tenant's Affiliate (as defined below) without obtaining the consent of City by giving City written notice of its intent thereof at least fifteen (15) business days before the proposed effective date of the transfer. As used in this Section, the term "**Tenant's Affiliate**" means any of the following: (a) any person or entity owning, directly or indirectly, fifty percent (50%) or more of the ownership interests of Tenant (an "Owning Person"), (b) any entity, fifty percent (50%) or more of the ownership interests of which are owned, directly or indirectly, by any Owning Person, (c) any entity, fifty percent (50%) or more of the ownership interests of which are owned, directly or indirectly, by Tenant.

## **16.2 Notice of Proposed Transfer**

If Tenant desires to enter into an Assignment or a Sublease, it must give written notice (a "**Notice of Proposed Transfer**") to City of its intention to do so. The Notice of Proposed Transfer shall identify the proposed transferee and state the terms and conditions of the proposed Assignment or Sublease. Tenant shall deliver to City with its request for City's consent the proposed Assignment or Sublease and current financial statements of the proposed Transferee, prepared by an independent certified public accountant, and promptly upon City's request for same, any additional documents or information reasonably related to the proposed transaction or Transferee.

## **16.3 City's Response**

(a) Within twenty (20) business days after City's receipt of the Notice of Proposed Transfer (the "Response Period"), City may elect, by written notice to Tenant, to: (i) sublease the portion of the Premises specified in the Notice of Proposed Transfer on the terms and conditions set forth in the notice, except as otherwise provided in Section 16.4 (City Sublease or Recapture Space) (a "City Sublease"), or (ii) terminate this Lease as to the portion (including all) of the Premises that is specified in the Notice of Proposed Transfer, with a proportionate reduction in Base Rent (a "Recapture").

(b) If City declines to exercise either of its options under subsection (a) above, then Tenant will have ninety (90) days following the earlier of (i) City's notice that it will not elect either option or (ii) the expiration of the Response Period, to enter into the Assignment or Sublease, subject to City's prior written approval of the proposed assignee or subtenant (in either case, a "Transferee") and the terms and conditions of the proposed Sublease or Assignment. However, fifty percent (50%) of any rent or other consideration realized by Tenant under any Assignment or Sublease in excess of the Base Rent and Additional Charges (or the amount proportionate to the portion of the Premises subject to a Sublease) will be paid to City, after Tenant has recovered any reasonable brokers' commissions and the reasonable cost of any leasehold improvements that Tenant has incurred in connection with the Sublease or Assignment. Tenant will provide City with any information regarding the proposed Transferee and the Assignment or Sublease as City may reasonably request. City agrees that it will not unreasonably withhold its approval of any proposed Transferee.

(c) If, after City declines to exercise any of the options under subsection (a) above, Tenant desires to enter into an Assignment or a Sublease (i) on terms and conditions materially more favorable to Tenant than those contained in the Notice of Proposed Transfer or (ii) with a Transferee that is currently a tenant or other occupant of the Building, then Tenant must give City a new Notice of Proposed Transfer, which notice will state the terms and conditions of the Assignment or Sublease and identify the proposed Transferee, and City will



again be entitled to elect one of the options provided in subsection (a) at any time within twenty (20) business days after City's receipt of the new Notice of Proposed Transfer.

(d) If City elects either of the options provided in subsection (a), City will be entitled to enter into a lease, sublease, or assignment agreement for the Premises (or portion specified in the Notice of Proposed Transfer) with any party, including the proposed Transferee identified in Tenant's notice.

(e) Notwithstanding the foregoing, if any Event of Default by Tenant is has occurred and is continuing at the time of Tenant's Notice of Proposed Transfer (or if any event occurs that, with the giving of notice or the passage of time or both, would constitute an Event of Default), then City may elect by notice to Tenant to refuse to consent to Tenant's proposed Transfer and pursue any of its right or remedies or at law or in equity.

#### **16.4 City Sublease or Recapture Space**

If City elects to Sublease or Recapture from Tenant as described in Section 16.3 (City's Response), then the following apply:

(a) In the case of a City Sublease, (i) City will have the right to use the portion of the Premises covered by the Notice of Proposed Transfer (the "City Sublease Space") for any legal purpose, (ii) the rent payable by City to Tenant will be the lesser of (A) the amount in the Notice of Proposed Transfer or (B) the Base Rent payable by Tenant under this Lease at the time of the City Sublease (or, if the City Sublease is for less than the entire Premises, the amount proportionate to the City Sublease Space), (iii) City may make alterations and improvements to the City Sublease Space and may remove any alterations or improvements, in whole or in part, before or upon the expiration of the City Sublease, provided that City will repair any damage or injury to the City Sublease Space caused by that removal, (iv) City will have the right to further sublease or assign the City Sublease Space to any party, without the consent of Tenant, and (v) Tenant will pay to City on demand any costs incurred by City in physically separating the City Sublease Space (if less than the entire Premises) from the balance of the Premises and in complying with any applicable Legal Requirements or regulations relating to the separation.

(b) In the case of Recapture, (i) the portion of the Premises subject to the Recapture (the "Recapture Space") will be deleted from the Premises for all purposes under the Lease, and Tenant and City will be relieved of all their rights and obligations under this Lease with respect to the Recapture Space, unless those rights and obligations expressly survive the Expiration Date or other termination of this Lease, and (ii) City will pay any cost incurred in physically separating the Recapture Space (if less than the entire Premises) from the balance of the Premises and in complying with any applicable Legal Requirements relating to the separation.

#### **16.5 Effect of Sublease or Assignment**

No Sublease or Assignment by Tenant or any consent by City will relieve Tenant, or any guarantor, of any obligation to be performed by Tenant under this Lease. Any Sublease or Assignment not in compliance with this Section will be void and, at City's option, will constitute a material default by Tenant under this Lease. The acceptance of any Base Rent or other payments by City from a proposed Transferee will not constitute consent to any Sublease or Assignment by City or a recognition of any Transferee, or a waiver by City of any failure of Tenant or other transferor to comply with this Section. If there is an Assignment or Sublease,

whether in violation of or in compliance with this Section, if there is any Event of Default by the Transferee, or any successor of Tenant or in the performance or observance of any of the terms of any Sublease or Assignment agreement, City may proceed directly against Tenant without the necessity of exhausting remedies against the Transferee or successor.

#### **16.6 Assumption by Transferee**

Each Transferee (other than City) will assume all obligations of Tenant under this Lease and will be liable jointly and severally with Tenant for the payment of the Rent, and for the performance of all the terms, covenants, and conditions to be performed by Tenant under this Lease. No Assignment will be binding on City unless Tenant or Transferee has delivered to City a counterpart of the Assignment and an instrument in recordable form that contains a covenant of assumption by the Transferee satisfactory in form and substance to City. However, the failure or refusal of the Transferee to execute the instrument of assumption will not release the Transferee from its liability under this Lease, as set forth above. Tenant will reimburse City on demand for any reasonable costs that may be incurred by City in connection with any proposed Sublease or Assignment, including, without limitation, the costs of making investigations as to the acceptability of the proposed Transferee and legal costs incurred in connection with the granting of any requested consent.

#### **16.7 Indemnity for Relocation Benefits**

Without limiting Section 16.6 (Assumption by Transferee) above, Tenant will cause any Transferee to expressly waive entitlement to any and all relocation assistance and benefits in connection with this Lease. Tenant will Indemnify City for any and all Losses arising out of any relocation assistance or benefits payable to any Transferee. Tenant's obligation to Indemnify City will survive the expiration or termination of this Lease and any Assignment or Sublease.

### **17. DEFAULT; REMEDIES**

#### **17.1 Events of Default**

Any of the following will constitute an event of default (the "**Event of Default**") by Tenant hereunder:

(a) a failure to pay Base Rent or Additional Charges when due, and that failure continues for three (3) days after the date of written notice by City. However, City will not be required to provide notice more than twice during any twelve (12)-month period, and any failure by Tenant after Tenant has received two (2) notices in a twelve (12)-month period will constitute an Event of Default by Tenant under this Lease without any further notice from City or opportunity for Tenant to cure except as may be required by Section 1161 of the California Code of Civil Procedure;

(b) a failure to comply with any other covenant, condition, representation, or warranty made under this Lease and that failure continues for fifteen (15) days after the date of written notice by City, provided that if the default is not capable of cure within the fifteen (15)-day period, Tenant will have a reasonable period to complete the cure if Tenant promptly undertakes action to cure the default within the fifteen (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 will not be required to provide a written notice of default more than twice in any twelve (12)-month period for any material non-monetary defaults and after the second notice in

any twelve (12)-month period, any subsequent failure by Tenant during that twelve (12)-month period will constitute an Event of Default;

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

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

## 17.2 Remedies

Upon the occurrence of an Event of Default City will have the following remedies, which will not be exclusive but will be cumulative and in addition to any other remedies now or later allowed by law or in equity:

(a) City may terminate Tenant's right to possession of the Premises at any time by written notice to Tenant. Tenant expressly acknowledges that in the absence of a written notice from City, no other act of City, including, but not limited to, its re-entry into the Premises, its efforts to relet the Premises, its reletting of the Premises for Tenant's account, its storage of Tenant's Personal Property and trade fixtures, its acceptance of keys to the Premises from Tenant, its appointment of a receiver, or its exercise of any other rights and remedies under this Section 17.2 or otherwise at law, will constitute an acceptance of Tenant's surrender of the Premises or constitute a termination of this Lease or of Tenant's right to possession of the Premises.

Upon a written termination of Tenant's right to possession of the Premises, this Lease will terminate and City will be entitled to recover damages from Tenant as provided in California Civil Code Section 1951.2 or any other applicable existing or future Legal Requirement providing for recovery of damages for a breach, including but not limited to the following:

(i) The reasonable cost of recovering the Premises; plus

(ii) The reasonable cost of removing Tenant's Alterations, trade fixtures, and improvements; plus

(iii) All unpaid Rent due or earned under this Lease before the date of termination, less the proceeds of any reletting or any rental received from subtenants before the date of termination applied as provided in Section 17.2(b) below, together with interest at the Interest Rate, on those amounts from the date the Rent is due and payable until the date of the award of damages; plus

(iv) The amount by which the Rent which would be payable by Tenant under this Lease, as reasonably estimated by City, from the date of termination until the date of the award of damages, exceeds the amount of the rental loss that Tenant proves could have been reasonably avoided, together with interest at the Interest Rate on those amounts from the date the Rent is due and payable until the date of the award of damages; plus

(v) The amount by which the Rent which would be payable by Tenant hereunder, as reasonably estimated by City, for the remainder of the then term, after the



date of the award of damages exceeds the amount the rental loss that Tenant proves could have been reasonably avoided, discounted at the discount rate published by the Federal Reserve bank of San Francisco for member banks at the time of the award plus one percent (1%); plus

(vi) Other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable Legal Requirements, including without limitation any other amount necessary to compensate City for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease which in the ordinary course of things would be likely to result therefrom.

(b) City has the remedy described in California Civil Code Section 1951.4 (a landlord may continue the lease in effect after the tenant's breach and abandonment and recover rent as it becomes due, if the tenant has the right to sublet and assign subject only to reasonable limitations), and may continue this Lease in full force and effect and may enforce all of its rights and remedies under this Lease, including, but not limited to, the right to recover Rent as it becomes due. After the occurrence of an Event of Default, City may enter the Premises without terminating this Lease and sublet all or any part of the Premises for Tenant's account to any person, for a term (which may be a period beyond the remaining term of this Lease), at rents, and on other terms and conditions that City deems advisable. If City sublets, rents received by City from the subletting will be applied (i) first, to the payment of the costs of maintaining, preserving, altering, and preparing the Premises for subletting, the other costs of subletting, including, but not limited to, brokers' commissions, attorneys' fees, and expenses of removal of Tenant's Personal Property, trade fixtures and Alterations; (ii) second, to the payment of Rent then due and payable under this Lease; (iii) third, to the payment of future Rent as it becomes due and payable under this Lease; and (iv) fourth, the balance, if any, will be paid to Tenant upon (but not before) expiration of the term of this Lease. If the rents received by City from any subletting, after application as provided above, are insufficient in any month to pay the Rent due under this Lease for the month, Tenant will pay the deficiency to City upon demand. Notwithstanding any subletting for Tenant's account without termination, City may at any time thereafter, by written notice to Tenant, elect to terminate this Lease by virtue of a previous Event of Default.

(c) During the continuance of an Event of Default, for so long as City does not terminate Tenant's right to possession of the Premises and subject to Section 16 (Assignment and Subletting) and the rights granted to City under that Section, City will not unreasonably withhold its consent to an Assignment or Sublease of Tenant's interest in the Premises or in this Lease.

(d) During the continuance of an Event of Default, City may enter the Premises without terminating this Lease and remove all Tenant's Personal Property, Alterations, and trade fixtures from the Premises and store them at Tenant's risk and expense. If City removes Tenant's Personal Property, Alterations, and trade fixtures from the Premises and stores it at Tenant's risk and expense, and if Tenant fails to pay the cost of the removal and storage after written demand and/or to pay any Rent then due, then, after the property has been stored for a period of thirty (30) days or more, City may sell it at public or private sale, in the manner and at the times and places as City deems commercially reasonable following reasonable notice to Tenant of the time and place of the sale. The proceeds of the sale will be applied first to the payment of the expenses for removal and storage of the property, the preparation for and conducting the sale, and for attorneys' fees and other legal expenses incurred by City, and the

balance will be applied as provided in Section 17.2(b) above. Tenant hereby waives all claims for damages that may be caused by City's reentering and taking possession of the Premises or removing and storing Tenant's Personal Property under this Section 17.2, and Tenant will indemnify, defend, and hold City harmless from and against any and all Claims resulting from City's reentering and taking possession of the Premises or removing and storing Tenant's Personal Property. No reentry by City will constitute or be construed as a forcible entry by City.

(e) City may require Tenant to remove any and all Alterations from the Premises or, if Tenant fails to do so within ten (10) days after City's request, City may do so at Tenant's expense.

(f) City may cure the Event of Default at Tenant's expense, it being understood that City's cure will not waive or cure the Event of Default. If City pays any sum or incurs any expense in curing the Event of Default, Tenant will reimburse City upon demand for the amount of the payment or expense with interest at the Interest Rate from the date the sum is paid or the expense is incurred until City is reimbursed by Tenant. Any amount due City under this subsection will constitute Additional Charges.

### **17.3 Waiver of Redemption**

Tenant hereby waives, for itself and all persons claiming by and under Tenant, all rights and privileges that it might have under any present or future Legal Requirement to redeem the Premises or to continue this Lease after being dispossessed or ejected from the Premises.

### **17.4 City's Right to Cure Tenant's Defaults**

If Tenant defaults in the performance of any of its obligations under this Lease, then City may, at its sole option, remedy the default for Tenant's account and at Tenant's expense by providing Tenant with three (3) days' prior written or oral notice of City's intention to cure the default (except that no prior notice will be required in the event of an emergency as determined by City). No action by City to cure Tenant's default will be construed as a waiver of Tenant's default or any rights or remedies of City, and nothing in this Section implies any duty of City to do any act that Tenant is obligated to perform. Tenant will pay to City upon demand, as additional rent, all costs, damages, expenses, or liabilities incurred by City, including, without limitation, reasonable attorneys' fees, in remedying or attempting to remedy the default. Tenant's obligations under this Section will survive the expiration or termination of this Lease.

## **18. WAIVER OF CLAIMS; INDEMNIFICATION**

### **18.1 Limitation on City's Liability; Waiver of Claims**

City will not be responsible for or liable to Tenant, and Tenant 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, (a) any act or omission of persons occupying adjoining premises or any part of the Building adjacent to or connected with the Premises; (b) theft; (c) explosion, fire, steam, oil, electricity, water, gas or rain, pollution, or contamination; (d) stopped, leaking, or defective Building Systems; (e) Building defects; and (f) any other acts, omissions, or causes. Nothing in this Section will relieve City from liability caused solely and directly by the active gross negligence or willful misconduct of City or its Agents, but City will not be liable under any circumstances for any consequential, incidental, or punitive damages.

## 18.2 Tenant's Indemnity

Tenant, on behalf of itself and its successors and assigns, will indemnify, defend, and hold harmless (“**Indemnify**”) City including, but not limited to, all of its boards, commissions, departments, agencies, and other subdivisions, including, without limitation, its Department of Public Health, 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 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 Tenant, or loss of or damage to property, howsoever or by whomsoever caused, occurring in or about the Premises; **(b)** any default by Tenant in the observation or performance of any of the terms, covenants, or conditions of this Lease to be observed or performed on Tenant’s part; **(c)** the use or occupancy or manner of use or occupancy of the Premises by Tenant, 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 Tenant on the Premises whether before or during the Term of this Lease; or **(f)** any acts, omissions, or negligence of Tenant, 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 the Indemnity is void or otherwise unenforceable under applicable Legal Requirements in effect on or validly retroactive to the date of this Lease and further except only those Claims as are caused exclusively by the willful misconduct or active gross negligence of the Indemnified Parties. The foregoing Indemnity includes, without limitation, reasonable fees of attorneys, consultants, and experts and related costs and City’s costs of investigating any Claim. Tenant 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 the allegation is or may be groundless, fraudulent, or false, which obligation arises at the time the Claim is tendered to Tenant by City and continues at all times thereafter. Tenant’s obligations under this Section will survive the expiration or termination of this Lease.

## 19. INSURANCE

### 19.1 Tenant's Insurance

**(a)** Tenant, at no cost to the City, will procure and keep in effect at all times during the Term insurance as follows:

**(i)** Commercial general liability insurance with limits not less than Two Million Dollars (\$2,000,000) 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).

**(ii)** Worker’s Compensation Insurance with Employer’s Liability limits not less than One Million Dollars (\$1,000,000) each accident.

**(iii)** Business automobile 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 owned and non-owned and hired vehicles, as applicable, if Tenant uses automobiles in connection with its use of the Premises.

(iv) Business Interruption Insurance insuring that the Rent will be paid to City for a period of at least one (1) year if Tenant is unable to operate its business at the Premises. Business Interruption Insurance must also cover business interruptions due to failures or interruptions in telecommunications services, strikes, employee lockouts, riots, or other civil commotion.

(v) Licensed professionals (i.e., architects, engineers, certified public accountants, etc.) will provide professional liability insurance with limits not less than \$1,000,000 each claim with respect to negligent acts, errors, or omissions in connection with professional services to be provided under this Lease or to the Premises.

(vi) Other insurance as is generally required by commercial owners of buildings similar in size, character, age, and location as the Building, as may change from time to time.

(b) If any of the required insurance is provided under a claims-made form, Tenant must maintain the coverage continuously throughout the Term and, without lapse, for a period of three (3) years beyond the expiration or termination of this Lease, to the effect that, if occurrences during the Term give rise to claims made after expiration or termination of this Lease, those claims will be covered by the claims-made policies. Tenant's obligations under this Section will survive the expiration or termination of this Lease.

(c) If any of the required insurance is 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 the general annual aggregate limit, the general aggregate limit must be double the occurrence or claims limits specified above.

(d) All liability insurance policies must be endorsed to provide the following:

(i) Name as additional insured the City and County of San Francisco, its officers, agents, and employees.

(ii) That the policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Lease, and that insurance applies separately to each insured against whom claim is made or suit is brought.

(e) Each insurance policy required under Section 19.1(a) above must be issued by an insurance company licensed in the State of California and with a general policyholders' rating of "A-" or better and a financial size ranking of "Class VIII" or higher in the most recent edition of Best's Insurance Guide.

(f) All insurance policies required to be maintained by Tenant hereunder must be endorsed to provide thirty (30) days' prior written notice of cancellation for any reason, intended non-renewal, or reduction in coverage to both Tenant and City. Notice to City will be mailed to the address(es) for City set forth in the Basic Lease Information.

(g) Tenant will deliver to City certificates of insurance and additional insured policy endorsements from insurers in a form satisfactory to City, evidencing the coverage required under this Lease, on or before the Commencement Date, together with complete copies of the policies promptly upon City's request. During the Term Tenant will provide City with

certificates or policies at least thirty (30) days before the expiration dates of expiring policies. If Tenant fails to procure the required insurance, or to deliver the policies or certificates, City may, at its option, without waiving any rights or remedies that City may have for Tenant's default, procure the insurance for the account of Tenant, and Tenant will pay the cost to City within five (5) days after delivery to Tenant of invoices therefor.

(h) Upon City's request, Tenant and City will periodically review the limits and types of insurance carried under this Section. If the general commercial practice in the City and County of San Francisco is to carry liability insurance in an amount or coverage materially greater than the amount or coverage then being carried by Tenant for risks comparable to those associated with the Premises, then Tenant will, at City's request, increase the amounts or coverage carried by Tenant to conform to the general commercial practice.

(i) Tenant's compliance with the provisions of this Section will in no way relieve or decrease Tenant's liability under Section 18.2 (Tenant's Indemnity), or any of Tenant's other obligations under this Lease.

(j) Notwithstanding anything to the contrary in this Lease, if any of the required insurance coverage lapses, this Lease will terminate upon three (3) days' notice to Tenant, unless Tenant renews the insurance coverage within the notice period.

## **19.2 Tenant's Personal Property**

Tenant is responsible, at no cost to the City, for separately insuring Tenant's Personal Property.

## **19.3 City's Self Insurance**

Tenant acknowledges that City self-insures against casualty, property damage, and public liability risks and agrees that City may at its sole election, but is not required to, carry any third party insurance coverage for Building, the Premises, or otherwise.

## **19.4 Waiver of Subrogation**

Notwithstanding anything to the contrary in this Lease, City and Tenant (each a "Waiving Party") each waives any right of recovery against the other party for any loss or damage relating to the Building or the Premises or any operations or contents, whether or not the loss is caused by the fault or negligence of the other party, to the extent the loss or damage is covered by third party insurance that is required to be purchased by the Waiving Party under this Lease or is actually covered by insurance held by the Waiving Party or its agents. Each Waiving Party agrees to obtain a waiver of subrogation rights endorsements from applicable insurance carriers issuing policies relating to the Building or the Premises; provided, the failure to obtain the endorsement will not affect the above waiver.

## **20. ACCESS BY CITY**

City reserves for itself and any of its designated Agents, the right to enter the Premises as follows: (a) on a regular basis without advance notice to supply any necessary or agreed-upon service to be provided by City under this Lease; (b) on an occasional basis, at all reasonable times after giving Tenant reasonable advance written or oral notice, to show the Premises to prospective tenants or other interested parties; to post notices of non-responsibility; to conduct any environmental audit of Tenant'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; and (c) on an



emergency basis without notice whenever City believes that emergency access is required. City will 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 that entry will 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 Tenant from the Premises or any portion thereof. Tenant will not alter any lock or install any new or additional locking devices without the prior written consent of City. All locks installed in the Premises must be keyed to the Building master key system, and City will at all times have a key with which to unlock all doors in the Premises (excluding Tenant's vaults, safes, or special security areas, if any, designated by Tenant in writing to City).

## **21. CERTIFICATES**

### **21.1 Tenant's Estoppel Certificates.**

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

### **21.2 City's Certificates.**

City, at any time and from time to time upon not less than ten (10) days' prior notice from Tenant, will execute and deliver to Tenant or to any party designated by Tenant a certificate stating: **(a)** the Commencement Date and Expiration Date of this Lease, **(b)** that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), **(c)** whether or not there are any known defaults then existing under this Lease (and if so specifying the same), and **(d)** the dates, if any, to which the Base Rent and Additional Charges have been paid.

## **22. RULES AND REGULATIONS**

Tenant will faithfully comply with the rules and regulations attached to this Lease as Exhibit E (Building Rules and Regulations) which the City may amend from time to time (the "**Rules and Regulations**"). City will not be responsible for the non-performance of the Rules and Regulations by any other tenant or occupant of the Building. If there is any conflict between any provision of this Lease and any provision of the Rules and Regulations, this Lease will control.

## **23. SECURITY DEPOSIT**

Upon execution of this Lease, Tenant will deposit with City the sum specified as the security deposit in the Basic Lease Information (the "**Security Deposit**"), in cash, to secure Tenant's faithful performance of all terms, covenants and conditions of this Lease. Tenant agrees that City may (but will not be required to) apply the Security Deposit in whole or in part to remedy any damage to the Premises caused by Tenant, its Agents, or Invitees, or any failure of

Tenant to perform any other terms, covenants, or conditions in this Lease (including, but not limited to, the payment of Rent either before or after a default), without waiving any of City's other rights and remedies hereunder or at law or in equity and without any obligation. Tenant waives the provisions of Section 1950.7 of the California Civil Code or any similar Legal Requirements now or hereafter in effect and agrees that Landlord may retain any portion of Security Deposit reasonably necessary to compensate Landlord for any foreseeable or unforeseeable loss or damage caused by the acts or omissions of Tenant, its Agents, or Invitees. Without limiting the foregoing, Tenant understands and agrees that Landlord may apply some or all of the Security Deposit to the payment of future Rent following a Tenant default.

If City uses any portion of the Security Deposit to cure any default by Tenant, Tenant will immediately replenish the Security Deposit to the original amount. If the Base Rent is increased under any of the provisions of this Lease, Tenant will increase the amount of the Security Deposit by the same percentage increase. City's obligations regarding the Security Deposit are solely that of debtor and not trustee. City will not be required to keep the Security Deposit separate from its general funds, and Tenant will not be entitled to interest on the Security Deposit. The amount of the Security Deposit will in no way limit the liabilities of Tenant under any provision of this Lease.

#### **24. SURRENDER OF PREMISES**

Upon the Expiration Date or other termination of this Lease, Tenant will peaceably quit and surrender to City the Premises together with the Tenant Improvements and all Alterations approved by City in good order and condition, except for normal wear and tear (after Tenant has made the last necessary repair required under this Lease), and further except for any portion of the Premises condemned and any damage and destruction for which Tenant is not responsible under the Lease. The Premises must be surrendered free and clear of all liens and encumbrances other than liens and encumbrances existing as of the date of this Lease and any other encumbrances created by City. Immediately before the Expiration Date or other termination of this Lease, Tenant must remove all of Tenant's Personal Property as provided in this Lease, and repair any damage resulting from the removal; provided, City in its sole discretion will have the right to reserve ownership of any telecommunications equipment, wire, cabling, and/or conduit installed in the Premises or any other portion of the Building by or on behalf of Tenant. If the removal is not completed at the expiration or other termination of this Lease, City may perform the removal at Tenant's expense. Notwithstanding anything to the contrary in this Lease, City can elect at any time before the Expiration Date or within five (5) days after termination of this Lease, to require Tenant to remove, at Tenant's sole expense, all or part of the Tenant Improvements, Alterations, or other improvements or equipment constructed or installed by or at the expense of Tenant including, but not limited to, any telecommunications equipment, wires, cabling, and/or conduit installed in the Premises or any other portion of the Building by or on behalf of Tenant. Tenant must promptly remove those items and repair, at no cost to the City, any damage to the Premises or the Building resulting from the removal, or if Tenant fails to repair, City may do so at Tenant's expense. Tenant's obligations under this Section will survive the expiration or sooner termination of this Lease. Any items of Tenant's Personal Property remaining in the Premises after the Expiration Date or sooner termination of this Lease 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 Legal Requirements.

Concurrently with the surrender of the Premises, Tenant will, 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 the termination of Tenant's leasehold estate and to effect the transfer or vesting of title to the Tenant Improvements or other improvements or equipment that remain part of the Premises. The terms of this Section will survive the expiration or sooner termination of this Lease.

## **25. REMOVAL OF ELECTRICAL AND TELECOMMUNICATIONS WIRES**

### **25.1 City May Elect to Remove or Retain Wires**

Within thirty (30) days after the expiration or sooner termination of this Lease or at any time that the Wires (as defined below) are no longer in active use by Tenant, City may elect by written notice to Tenant to: (a) retain any or all wires, cables, and similar installations appurtenant thereto (the "Wires") installed by or on behalf of Tenant within the Premises or any portion of the Building outside the Premises, including, without limitation, the plenums or risers of the Building; (b) remove any or all of the Wires and restore the Premises or the Building, as the case may be, to their condition existing before the installation of the Wires (the "Wire Restoration Work"), at Tenant's sole cost and expense; or (c) require Tenant to perform all or part of the Wire Restoration Work at Tenant's sole cost and expense.

### **25.2 Compliance with Laws and Discontinuance of Wire Use**

Tenant must comply with all applicable Legal Requirements with respect to the Wires. Within thirty (30) days after Tenant discontinues the use of all or any part of the Wires, Tenant will deliver to City written notice of the discontinuance, together with a plan or other reasonable description of the current type, quantity, points of commencement and termination, and routes of the Wires to allow City to determine if City desires to retain the Wires.

### **25.3 Condition of Wires**

If City elects to retain any or all of the Wires, Tenant covenants that (a) Tenant is the sole owners of the Wires, Tenant has the sole right to surrender the Wires, and the Wires are free of all liens and encumbrances; and (b) all Wires will be left in a good and safe working condition, properly labeled and capped or sealed at each end and in each telecommunications/electrical closet and junction box.

### **25.4 City's Right to Retain Security Deposit**

Notwithstanding anything in this Lease to the contrary, City may retain Tenant's Security Deposit after the expiration or sooner termination of this Lease until one of the following events has occurred with respect to all of the Wires: (a) City elects to retain the Wires under Section 25.1(a); (b) City elects to perform the Wire Restoration Work under Section 25.1(b) and the Wire Restoration Work is complete and Tenant has fully reimbursed City for all costs related thereto; or (c) City elects to require Tenant to perform the Wire Restoration Work under Section 25.1(c), the Wire Restoration Work is complete, and Tenant has paid for all costs related thereto.

### **25.5 City Can Apply Security Deposit; Survival**

If Tenant fails or refuses to pay all costs of the Wire Restoration Work within thirty (30) days after City's notice requesting Tenant's reimbursement for or payment of the costs or



otherwise fails to comply with the provisions of this Section, then City may apply all or any portion of Tenant's Security Deposit toward the payment of any costs or expenses relating to the Wire Restoration Work or Tenant's obligations under this Section. The retention or application of the Security Deposit by City under this Section does not constitute a limitation on or waiver of City's right to seek further remedies under law or equity. The terms of this Section will survive the expiration or sooner termination of this Lease.

## 26. HAZARDOUS MATERIALS

### 26.1 Definitions

As used in this Lease:

(a) **“Environmental Laws”** means all present or future Legal Requirements relating to Hazardous Material (including, without limitation, its 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.

(b) **“Hazardous Material”** means any material that, because of its quantity, concentration or physical or chemical characteristics, is at any time now or later 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 defined as a “hazardous substance,” or “pollutant” or “contaminant” under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”, also commonly known as the “Superfund” law), as amended, (42 U.S.C. Section 9601 et seq.) or under Section 25316 of the California Health & Safety Code; any “hazardous waste” listed under Section 25140 of the California Health & Safety Code; and petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

(c) **“Investigate”** and **“Investigation”** means undertaking any activities to determine the nature and extent of Hazardous Material that may be located in, on, under, or about the Property or that has been, are being or threaten to be Released into the environment; **“Remediate”** and **“Remediation”** means to clean up, remove, contain, treat, stabilize, monitor, or otherwise control the Hazardous Material.

(d) **“Release”** when used with respect to Hazardous Material includes any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside the Premises, or in, on, under, or about any other part of the Property or into the environment.

### 26.2 No Hazardous Materials

Tenant covenants and agrees that neither Tenant nor any of its Agents or Invitees will cause or permit any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Property, or transported to or from the Property, with the sole exception that Tenant may keep and use Hazardous Material in the Premises in reasonably limited amounts as are customarily used for general office purposes (such as copy toner and other normal office and cleaning supplies) and may generate Hazardous Material as a result of measures taken under Articles 7 or 8 of this Lease that disturb or remove lead-based or presumed lead-based paint from the exterior or interior surfaces of the Premises so long as the generation, storage, transportation, use, and disposal are in compliance with all applicable Environmental Laws at all times. Tenant must give immediate written notice to City of: (a) any action,

proceeding, or inquiry by any governmental authority (including, without limitation, the California State Department of Health Services, the State or any Regional Water Quality Control Board, the Bay Area Air Quality Management district or any local governmental entity) against Tenant with respect to the presence or Release or suspected presence or Release of Hazardous Material on the Premises, Building or Property or the migration thereof from or to other property; (b) all demands or claims made or threatened by any third party against Tenant or the Premises, Building, or Property relating to any loss or injury resulting from any Hazardous Materials; (c) any Release of Hazardous Material on or about the Premises or any other part of the Property has occurred that may require any Investigation or Remediation; and (d) all matters of which Tenant is required to give notice under Section 25359.7 of the California Health and Safety Code.

### **26.3 Tenant's Environmental Indemnity**

If Tenant breaches any of its obligations contained in this Section, or, if any act or omission of Tenant, its Agents, or Invitees, results in any Release of Hazardous Material in, on, under, or about the Premises or any other part of the Property in violation of any applicable Environmental Laws, then, without limiting Tenant's Indemnity contained in Section 18.2 (Tenant's Indemnity), Tenant will, on behalf of itself and its successors and assigns, Indemnify the Indemnified Parties, and each of them, from and against all Claims (including, without limitation, damages for decrease in value of the Premises or the Property, the loss or restriction of the use of rentable or usable space or of any amenity of the Premises or the Property and sums paid in settlement of claims, attorneys' fees, consultants' fees and experts' fees and costs) arising during or after the Term of this Lease and relating to the Release. The foregoing Indemnity includes, without limitation, costs incurred in connection with activities undertaken to Investigate and Remediate Hazardous Material and to restore the Property to its prior condition, fines and penalties assessed for the violation of any applicable Environmental Laws Without limiting the foregoing, if Tenant or any of its Agents or Invitees, causes or permits the Release of any Hazardous Materials in, on, under, or about the Premises or any other part of the Property, Tenant will immediately and at no expense to City take all appropriate actions to return the Premises or the Property affected by the Release to the condition existing before the Release and otherwise Investigate and Remediate the Release in accordance with all Environmental Laws. Tenant 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 the allegation is or may be groundless, fraudulent or false, and this obligation arises at the time the claim is tendered to Tenant by the City and continues at all times thereafter. Tenant will afford City 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.

### **26.4 Survival of Obligation**

Tenant's obligations under this Section 26 will survive the expiration or earlier termination of this Lease.

### **26.5 Hazardous Substance Disclosure**

California requires landlords to disclose to tenants the presence or potential presence of certain Hazardous Materials. Accordingly, Tenant 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, tobacco smoke, methane, and building materials containing chemicals, such as formaldehyde. By execution of this Lease, Tenant acknowledges that the notices and warnings set forth above satisfy the requirements of California Health and Safety Code Section 25359.7 and related statutes and Tenant waives, to the extent permitted by Legal Requirements, any and all rights Tenant may have to assert that City has not complied with the requirements of the statute.

## **27. GENERAL PROVISIONS**

### **27.1 Notices**

Any notice given under this Lease will be effective only if in writing and given by delivering the notice in person or by sending it first-class mail or certified mail with a return receipt requested or by overnight courier, return receipt requested, with postage prepaid, to: (a) Tenant, (i) at Tenant's address set forth in the Basic Lease Information, if sent before Tenant takes possession of the Premises, or (ii) at the Premises if sent on or after Tenant takes possession of the Premises, or (iii) at any place where Tenant or any Agent of Tenant may be found if sent after Tenant vacates, abandons, or surrenders the Premises; or (b) City, at City's address set forth in the Basic Lease Information; or (c) to any other address that either City or Tenant may designate as its new address by notice given to the other in accordance with the provisions of this Section at least ten (10) days before the effective date of the change. Any notice will 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 on the date personal delivery is made. For convenience of the parties, copies of notices may also be given by email to the email address set forth in the Basic Lease Information or as may be provided from time to time; however, neither no official or binding notice may be given by email; a notice will only be deemed given and effective when sent as provided in the first two sentences of this Section. Tenant will promptly provide City with copies of all notices received regarding any alleged violation of Legal Requirements or insurance requirements or any alleged unsafe condition or practice.

### **27.2 No Implied Waiver**

No failure by City to insist upon the strict performance of any obligation of Tenant under this Lease or to exercise any right, power, or remedy arising out of a breach, regardless of the length of time that the breach continues, no acceptance of full or partial Base Rent or Additional Charges during any breach, and no acceptance of the keys to or possession of the Premises before the expiration of the Term by any Agent of City, will constitute a waiver of the breach or of City's right to demand strict compliance with any term, covenant, or condition or operate as a surrender of this Lease. No express written waiver of any default or the performance of any provision of this Lease will affect any other default or performance, or cover any other period of time, other than the default, performance, or period of time specified in the express waiver. One or more written waivers of a default or the performance of any provision of this Lease will not be deemed to be a waiver of a subsequent default or performance. Any consent by City under this Lease will not relieve Tenant of any obligation to secure the consent of City in any other or future instance under the terms of this Lease.

### **27.3 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. Whenever this Lease requires or permits the City's its consent or approval, the Director of Property, or his or her designee will be authorized to provide the consent or approval, except as otherwise provided by applicable Legal Requirements, including the Charter. Any amendments or modifications to this Lease, including, without limitation, amendments to or modifications to the exhibits to this Lease, are subject to the mutual written agreement of City and Tenant, and City's agreement may be made upon the sole approval of the Director of Property, or his or her designee; provided, however, material amendments or modifications to this Lease (a) changing the legal description of the Premises, (b) increasing the Term, (c) increasing the Rent, (d) changing the general use of the Premises from the use authorized under Section 5.1 (Permitted Use) of this Lease, and (e) any other amendment or modification that materially increases the City's liabilities or financial obligations under this Lease will also require the approval of the City's Board of Supervisors.

#### **27.4 Authority**

If Tenant signs as a corporation or a partnership, each of the persons executing this Lease on behalf of Tenant covenants and warrants that Tenant is a duly authorized and existing entity, that Tenant has and is qualified to do business in California, that Tenant has full right and authority to enter into this Lease, and that each and all of the persons signing on behalf of Tenant are authorized to do so. Upon City's request, Tenant will provide City with evidence reasonably satisfactory to City confirming these representations and warranties.

#### **27.5 Parties and Their Agents; Approvals**

The words "City" and "Tenant" include the plural as well as the singular. If there is more than one entity that comprises Tenant, Tenant's obligations and liabilities under this Lease are joint and several. The term "Agents" when used with respect to either party includes the agents, employees, officers, contractors, and representatives of the party, and the term "Invitees" when used with respect to Tenant includes the clients, customers, invitees, guests, licensees, assignees, or subtenants of Tenant. All approvals, consents, or other determinations permitted or required by City will be made by or through City's Director of Property unless otherwise provided in this Lease, subject to applicable Legal Requirements.

#### **27.6 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 in no way define or limit the scope or intent of any provision of this Lease. Provisions in this Lease relating to number of days are calendar days, unless otherwise specified, but if the last day of any period to give notice, reply to a notice, or to undertake any other action occurs on a Saturday, Sunday, or a bank or City holiday, then the last day for undertaking the action or giving or replying to the notice will be the next succeeding business day. Use of the word "including" or similar words will 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.

#### **27.7 Successors and Assigns**

Subject to the provisions of this Lease relating to Assignment and Subletting, the terms, covenants, and conditions contained in this Lease will bind and benefit of City and Tenant and their successors and assigns; provided, however, that upon any sale, assignment, or transfer by City (or by any subsequent landlord) of its interest in the Building as owner or lessee, including



any transfer by operation of law, City (or any subsequent landlord) will be relieved from all obligations and liabilities arising under this Lease after the sale, assignment, or transfer.

### **27.8 Brokers**

Neither party has had any contact or dealings regarding leasing the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the lease contemplated in this Lease except as identified in the Basic Lease Information, whose commission, if any is due, will be paid under a separate written agreement between the broker and the party through which the broker contracted. If any broker or finder perfects a claim for a commission or finder's fee based upon a contact, dealings, or communication, then the party through whom the broker or finder makes a claim will be responsible for the commission or fee and will indemnify the other party from any and all Claims incurred by the indemnified party in defending against the broker's or finder's claim. The provisions of this Section will survive the expiration or any earlier termination of this Lease.

### **27.9 Severability**

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

### **27.10 Governing Law**

This Lease will be construed and enforced in accordance with the Legal Requirements of the State of California and the City's Charter.

### **27.11 Entire Agreement**

This Lease, including the exhibits, which are made a part of this Lease by this reference, contains the entire agreement between the parties and all prior written or oral negotiations, understandings, and agreements are merged into this Lease. The parties intend that this Lease constitutes the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts and changes) may be introduced in any judicial, administrative, or other legal proceeding involving this Lease. Tenant acknowledges that neither City nor City's Agents have made any representations or warranties with respect to the Premises, the Building, or this Lease except as expressly set forth in this Lease, and no rights, easements, or licenses are or will be acquired by Tenant by implication or otherwise unless expressly set forth in this Lease.

### **27.12 Attorneys' Fees**

If either City or Tenant fails to perform any of its obligations under this Lease or if a dispute arises concerning the meaning or interpretation of any provision of this Lease, then the defaulting party or the non-prevailing party in the dispute, as the case may be, will pay the prevailing party's 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



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

### **27.13 Holding Over**

(a) If Tenant retains possession of any portion of the Premises after the expiration or the earlier termination of this Lease, then unless City expressly agrees to the holdover in writing, Tenant will pay City, on a month-to-month basis, Base Rent equal to two hundred percent (200%) of the latest Base Rent payable by Tenant before the expiration or termination of the Lease, together with an amount estimated by City for the monthly Additional Charges, and will otherwise be on the terms and conditions herein specified so far as applicable (except for those pertaining to the Term and any Extension Options). Any failure by Tenant to surrender, discontinue using, or, if required by City, any failure to remove any property or equipment following written demand by City, will constitute continuing possession for purposes of this Section. Tenant acknowledges that the foregoing provisions do not serve as permission for the Tenant to hold over, or serve to extend the term of this Lease beyond the end of the Term. Any holding over without City's consent will constitute a default by Tenant and entitle City to exercise any or all of its remedies, notwithstanding that City may elect to accept one or more payments of Rent, and whether or not the amounts are at the holdover rate specified above or the rate in effect at the end of the Term of this Lease.

(b) Any holding over after the expiration of the Term with the express consent of City will be construed to automatically extend the Term of this Lease on a month-to-month basis at a Base Rent equal to one hundred fifty percent (150%) of the latest Base Rent payable by Tenant before the expiration, together with an amount estimated by City for the monthly Additional Charges, and will otherwise be on the terms and conditions herein specified so far as applicable (except for those pertaining to the Term and any Extension Options).

(c) Tenant's obligations under this Section will survive the expiration or termination of this Lease.

### **27.14 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.

### **27.15 Cumulative Remedies**

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

### **27.16 Survival of Indemnities**

Termination of this Lease will not affect the right of either party to enforce any indemnities and representations and warranties given or made to the other party under this Lease, or affect any provision of this Lease that expressly states it will survive expiration or termination of the Lease.

### **27.17 Signs**

Tenant will not erect or maintain, or permit to be erected or maintained, any signs, notices or graphics upon or about the Premises that 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.

### **27.18 Relationship of the Parties**

City is not, and none of the provisions in this Lease will be deemed to render City, a partner in Tenant's business, or joint venture, or member in any joint enterprise with Tenant. Neither party may act as the agent of the other party for any purpose under this Lease. This Lease is not intended and it will not be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided.

### **27.19 Light and Air**

Tenant covenants and agrees that no diminution of light, air, or view by any structure that may later be erected (whether or not by City) will entitle Tenant to any reduction of the Base Rent or Additional Charges under this Lease, result in any liability of City to Tenant, or in any other way affect this Lease or Tenant's obligations under the Lease.

### **27.20 No Recording**

Tenant may not record this Lease or any memorandum of this Lease in the public records.

### **27.21 Options Personal**

Any extension of the Term (automatic or otherwise) this Lease is personal to the original named Tenant and may be exercised only by the original named Tenant while occupying the Premises without the intent of then making an Assignment of this Lease or Subletting of the Premises, or any portion thereof. No automatic extension or any right or option to extend the Term or renew this Lease may be exercised by or assigned, voluntarily or involuntarily, by or to any person or entity other than the original named Tenant.

### **27.22 Public Transit Information**

Tenant, at Tenant's sole expense, will establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Tenant employed on the Premises, including, without limitation, the distribution of written materials to employees explaining the convenience and availability of public transportation facilities adjacent or near the Building and encouraging use of them.

### **27.23 Taxes, Assessments, Licenses, Permit Fees and Liens**

(a) Tenant recognizes and understands that this Lease may create a possessory interest subject to property taxation and that Tenant may be subject to the payment of property taxes levied on its possessory interest.

(b) Tenant will pay taxes of any kind, including possessory interest taxes, that may be lawfully assessed on the leasehold interest created by this Lease and to pay all other taxes, excises, licenses, permit charges, and assessments based on Tenant's use of the Premises that may be imposed upon Tenant by Legal Requirements, all of which must be paid when they become due and payable and before delinquency.

(c) Tenant will not allow or suffer a lien for any taxes to be imposed on the Premises or upon any equipment or property located in the Premises without promptly discharging the lien, provided that Tenant, if it desires, may have reasonable opportunity to contest the validity of the same.

(d) San Francisco Administrative Code Sections 23.38 and 23.39 require that City report certain information relating to the creation, renewal, extension, assignment, sublease, or other transfer of this Lease to the County Assessor within sixty (60) days after the transaction, and that Tenant report certain information relating to those matters to City within thirty (30) days after the applicable transaction. Tenant will timely provide any information that City may request to enable it to comply with this requirement.

### **27.24 Non-Liability of City Officials, Employees and Agents**

No elected or appointed board, commission, member, officer, employee, or other Agent of City will be personally liable to Tenant, its successors and assigns, in the event of any default or breach by City or for any amount that may become due to Tenant, its successors and assigns, or for any obligation of City under this Lease.

### **27.25 Non-Discrimination in City Contracts and Benefits Ordinance**

(a) **Covenant Not to Discriminate.** In the performance of this Lease, Tenant will not to discriminate against any employee, any City employee working with Tenant, or applicant for employment with Tenant, 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 protected classes, or in retaliation for opposition to discrimination against protected classes.

(b) **Subleases and Other Subcontracts.** Tenant will include in all Subleases and other subcontracts relating to the Premises a non-discrimination clause applicable to the Subtenant or other subcontractor in substantially the form of subsection (a) above. In addition, Tenant will incorporate by reference in all 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 require all subtenants and other subcontractors to comply with those provisions. Tenant's failure to comply with the obligations in this subsection will constitute a material breach of this Lease.

(c) **Non-Discrimination in Benefits.** Tenant 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 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 the employees, where the domestic partnership has been registered with a governmental entity under state or local Legal Requirements authorizing that registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

**(d) CMD Form.** As a condition to this Lease, Tenant must execute the “Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits” form (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division. Tenant represents that before execution of this Lease, **(i)** Tenant executed and submitted to the CMD Form CMD-12B-101 with supporting documentation, and **(ii)** the CMD approved the form.

**(e) Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Agreement as though fully set forth in this Lease. Tenant will comply fully with and be bound by all of the provisions that apply to this Lease under those Chapters of the Administrative Code, including but not limited to the remedies provided in those Chapters. Without limiting the foregoing, Tenant understands that under 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 the person was discriminated against in violation of the provisions of this Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

#### **27.26 No Relocation Assistance; Waiver of Claims**

Tenant acknowledges that it will not be a displaced person at the time this Lease is terminated or expires by its own terms, and Tenant fully RELEASES 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 Legal Requirements, including, without limitation, any and all claims for relocation benefits or assistance from City under federal and state relocation assistance Legal Requirements (including, but not limited to, California Government Code Section 7260 et seq.), except as otherwise specifically provided in this Lease with respect to a Taking.

#### **27.27 MacBride Principles — Northern Ireland**

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



### **27.28 Tropical Hardwood and Virgin Redwood Ban; Preservative-Treated Wood Containing Arsenic**

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, Tenant will not provide any items to the construction of Tenant Improvements or the Alterations, or otherwise in the performance of this Lease that are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. If Tenant fails to comply with any of the provisions of Chapter 8 of the San Francisco Environment Code, Tenant will be liable for liquidated damages for each violation in any amount equal to Tenant's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater. Tenant 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.

### **27.29 Restrictions on the Use of Pesticides**

(a) Chapter 3 of the San Francisco Environment Code (the Integrated Pest Management Program Ordinance or "**IPM Ordinance**") describes an integrated pest management ("**IPM**") policy to be implemented by all City departments. Tenant may not use or apply or allow the use or application of any pesticides on the Premises or contract with any party to provide pest abatement or control services to the Premises without first receiving City's written approval of an IPM plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the term of this Lease, (ii) describes the steps Tenant will take to meet the City's IPM Policy described in Section 300 of the IPM Ordinance, and (iii) identifies, by name, title, address, and telephone number, an individual to act as the Tenant's primary IPM contact person with the City. Tenant will comply, and will require all of Tenant's contractors to comply, with the IPM plan approved by the City and will comply with the requirements of Sections 300(d), 302, 304, 305(f), 305(g), and 306 of the IPM Ordinance, as if Tenant were a City department. Among other matters, the provisions of the IPM Ordinance: (A) provide for the use of pesticides only as a last resort, (B) prohibit the use or application of pesticides on property owned by the City, except for pesticides granted an exemption under Section 303 of the IPM Ordinance (including pesticides included on the most current Reduced Risk Pesticide List compiled by City's Department of the Environment), (C) impose certain notice requirements, and (D) require Tenant to keep certain records and to report to City all pesticide use at the Premises by Tenant's staff or contractors.

(b) If Tenant or Tenant's contractor would apply pesticides to outdoor areas at the Premises, Tenant must first obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation ("**CDPR**") and the pesticide application must be made only by or under the supervision of a person holding a valid, CDPR-issued Qualified Applicator certificate or Qualified Applicator license. City's current Reduced Risk Pesticide List and additional details about pest management on City property can be found at the San Francisco Department of the Environment website, <http://sfenvironment.org/ipm>.

### **27.30 First Source Hiring Agreement**

Tenant and City are parties to the First Source Agreement attached to this Lease as Exhibit G under San Francisco Administrative Code, Chapter 83 (the "First Source Agreement"). Any default by Tenant under the First Source Agreement will be a default under this Lease.]

### **27.31 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.

### **27.32 Conflicts of Interest**

Through its execution of this Lease, Tenant acknowledges that it is familiar with the provisions of Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and California Government Code Section 87100 et seq. and Section 1090 et seq., and certifies that it does not know of any facts that would constitute a violation of those provisions, and agrees that if Tenant becomes aware of any violation during the Term Tenant will immediately notify the City.

### **27.33 Charter Provisions**

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

### **27.34 Drug-Free Workplace**

Tenant acknowledges that under the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession, or use of a controlled substance under federal Legal Requirements is prohibited on City premises. Tenant agrees that any violation of this prohibition by Tenant, its Agents, or assigns will be a material breach of this Lease.

### **27.35 Prohibition of Tobacco Sales and Advertising**

Tenant acknowledges and agrees that no advertising or sale of cigarettes or tobacco products is allowed on the Premises. This advertising prohibition includes the placement of the name of a company producing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product.

### **27.36 Prohibition of Alcoholic Beverage Advertising**

Tenant acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Premises. For purposes of this section, "alcoholic beverage" is defined as set forth in California Business and Professions Code Section 23004, and does not include cleaning solutions, medical supplies, and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product.]

### **27.37 Counterparts**

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

### **27.38 Effective Date**

This Lease will be effective on the date this Lease is duly executed and delivered by the parties.

### **27.39 Requiring Health Benefits for Covered Employees**

Unless exempt, Tenant will 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 they may be amended from time to time. The provisions of Chapter 12Q are incorporated herein by reference and made a part of this Lease 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 Lease have the meanings assigned to those terms in Chapter 12Q.

(a) For each Covered Employee, Tenant will provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Tenant chooses to offer the health plan option, the health plan must meet the minimum standards set forth by the San Francisco Health Commission.

(b) Notwithstanding the above, if the Tenant is a small business as defined in Section 12Q.3(d) of the HCAO, it will have no obligation to comply with subsection (a) above.

(c) Tenant's failure to comply with the HCAO will constitute a material breach of this Lease. City will notify Tenant if a breach has occurred. If, within thirty (30) days after receiving City's written notice of a breach of this Lease for violating the HCAO, Tenant fails to cure the breach or, if the breach cannot reasonably be cured within the thirty (30) days period, and Tenant fails to commence efforts to cure within that period, or fails diligently to pursue the cure to completion, then City will have the right to pursue the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies will be exercisable individually or in combination with any other rights or remedies available to City.

(d) Any Subcontract entered into by Tenant must require the Subcontractor to comply with the requirements of the HCAO and contain contractual obligations substantially the same as those set forth in this Section. Tenant will notify City's Purchasing Department when it enters into a Subcontract and will certify to the Purchasing Department 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 Tenant will 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 Tenant based on the Subcontractor's failure to comply, provided that City has first provided Tenant with notice and an opportunity to cure the violation.

(e) Tenant may not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City regarding Tenant'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.

(f) Tenant 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.

(g) Tenant will keep itself informed of the current requirements of the HCAO.

(h) Tenant will 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.

(i) Tenant will 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.

(j) City may conduct random audits of Tenant to ascertain its compliance with HCAO. Tenant will cooperate with City when it conducts the audits.

(k) If Tenant is exempt from the HCAO when this Lease is executed because its amount is less than Fifty Thousand Dollars (\$50,000) for nonprofits, but Tenant later enters into an agreement or agreements that cause Tenant's aggregate amount of all agreements with City to reach Seventy-Five Thousand Dollars (\$75,000), then all the agreements will be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Tenant and the Contracting Department to be equal to or greater than Seventy-Five Thousand Dollars (\$75,000) in the fiscal year.

#### **27.40 Notification of Limitations on Contributions**

Through its execution of this Lease, Tenant acknowledges that it is familiar with San Francisco Campaign and Governmental Conduct Code section 1.126, which prohibits any person who contracts with the City to sell or lease any land or building to or from the City whenever the 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) an individual holding a City elective office if the contract must be approved by that individual, (b) a candidate for the office held by that individual, or (c) a committee controlled by that individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for the contract or six months after the date the contract is approved. Tenant 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. Tenant further acknowledges that the prohibition on contributions applies to each party comprising Tenant; each member of Tenant's board of directors, and Tenant's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than twenty percent (20% in Tenant; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Tenant. Additionally, Tenant acknowledges that Tenant must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Tenant will provide to City the name of each person, entity, or committee described above.



#### **27.41 Resource-Efficient City Buildings**

Tenant acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 713 relating to green building requirements for the design, construction, and operation of buildings owned or leased by City. Tenant must comply with all applicable provisions of those code sections.

#### **27.42 Food Service and Packaging Waste Reduction Ordinance**

Tenant will comply with and is bound by all of the provisions of the Food Service and Packaging 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 into this Lease by reference and made a part of this Lease as though fully set forth. This provision is a material term of this Lease. By entering into this Lease, Tenant acknowledges that the Food Service and Packaging Waste Reduction Ordinance contains penalties for noncompliance including One Hundred Dollars (\$100.00) for the first breach, Two Hundred Dollars (\$200.00) for the second breach in the same year, and Five Hundred Dollars (\$500.00) for subsequent breaches in the same year. These amounts will not be considered a penalty under this Lease, and do not limit City's other rights and remedies available under this Lease, at law, or in equity.

#### **27.43 San Francisco Packaged Water Ordinance**

Tenant will comply with San Francisco Environment Code Chapter 24 ("**Chapter 24**"). Tenant may not sell, provide, or otherwise distribute Packaged Water, as defined in Chapter 24 (including bottled water), in the performance of this Agreement or on City property unless Tenant obtains a waiver from the City's Department of the Environment. If Tenant violates this requirement, the City may exercise all remedies in this Agreement and the Director of the City's Department of the Environment may impose administrative fines as set forth in Chapter 24.

#### **27.44 Criminal History in Hiring and Employment Decisions**

(a) Unless exempt, Tenant will comply with and be bound by all of the provisions of San Francisco Administrative Code Chapter 12T (Criminal History in Hiring and Employment Decisions), as amended from time to time ("**Chapter 12T**"), which are incorporated into this Lease as if fully set forth, with respect to applicants and employees of Tenant who would be or are performing work at the Premises.

(b) Tenant must incorporate by reference the provisions of Chapter 12T in all subleases of some or all of the Premises, and require all subtenants to comply with those provisions. Tenant's failure to comply with the obligations in this subsection will constitute a material breach of this Lease.

(c) Tenant and subtenants may not inquire about, require disclosure of, or if the information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or

(6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

(d) Tenant and subtenants may not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection (c) above. Tenant and subtenants may not require that disclosure or make any inquiry until either after the first live interview with the person, or after a conditional offer of employment.

(e) Tenant and subtenants will state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Tenant or subtenant at the Premises, that the Tenant or subtenant will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

(f) Tenant and subtenants will post the notice prepared by the Office of Labor Standards Enforcement (“OLSE”), available on OLSE’s website, in a conspicuous place at the Premises and at other workplaces within San Francisco where interviews for job opportunities at the Premises occur. The notice must be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the Premises or other workplace at which it is posted.

(g) Tenant and subtenants understand and agree that upon any failure to comply with the requirements of Chapter 12T, the City will have the right to pursue any rights or remedies available under Chapter 12T or this Lease, including, but not limited to a, penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant, or other person as to whom a violation occurred or continued, or termination of this Lease in whole or in part.

(h) If Tenant has any questions about the applicability of Chapter 12T, it may contact the City’s Real Estate Division for additional information. City’s Real Estate Division may consult with the Director of the City’s Office of Contract Administration who may also grant a waiver, as set forth in Section 12T.8.

#### **27.45 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 will be considered the drafter of this Lease, and no presumption or rule that an ambiguity will be construed against the party drafting the clause will apply to the interpretation or enforcement of this Lease.

#### **27.46 Vending Machines; Nutritional Standards**

Tenant may not install or permit any vending machine on the Premises without the prior written consent of the Director of Property. Any permitted vending machine must comply with the food and beverage nutritional standards and calorie labeling requirements set forth in San Francisco Administrative Code section 4.9-1(c), as may be amended from time to time (the “Nutritional Standards Requirements”). Tenant will incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Premises or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply with this Section 28.48 will be a material breach of this Lease. Without limiting Landlord’s other rights and remedies under this Lease, Landlord

will have the right to require the immediate removal of any vending machine on the Premises that is not permitted or that violates the Nutritional Standards Requirements.

**27.47 All-Gender Toilet Facilities**

If applicable, Tenant will comply with San Francisco Administrative Code Section 4.1-3 requiring at least one all-gender toilet facility on each floor of any new building on City-owned land and within existing buildings leased by the City where extensive renovations are made. An “all-gender toilet facility” means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures, and “extensive renovations” means any renovation where the construction cost exceeds 50% of the cost of providing the toilet facilities required by this section. If Tenant has any question about applicability or compliance, Tenant should contact the Director of Property for guidance.

*[SIGNATURES ON FOLLOWING PAGE]*





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

**TENANT:**

Faces SF,  
a California nonprofit public benefit corporation

By:


  
LAWLAND LONG

Its: Executive Director

**CITY:**

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

By:

  
ANDRICO Q. PENICK

Director of Property, pursuant to Administrative  
Code 23.31

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By:

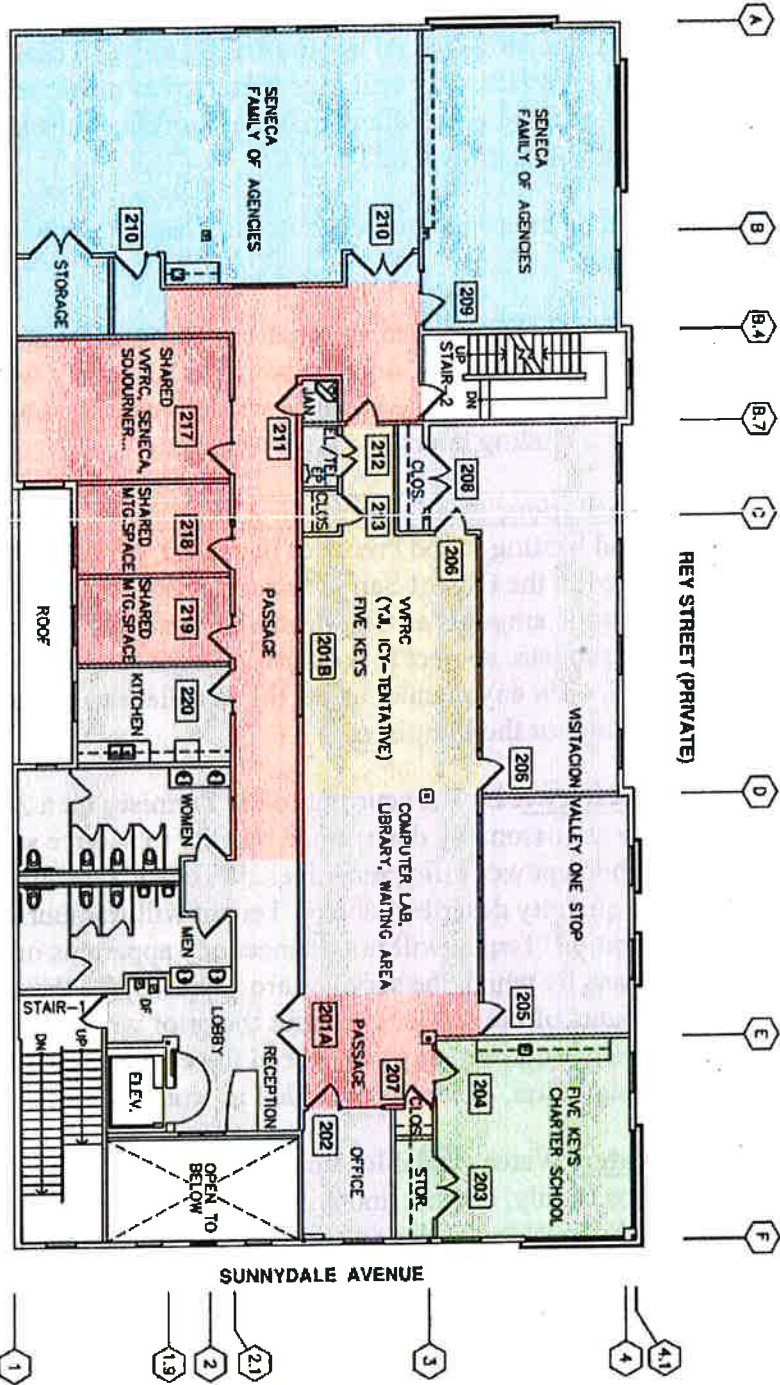
  
Eileen Chauvet

Deputy City Attorney

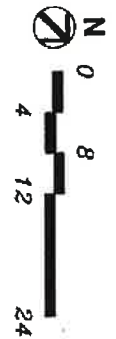


# EXHIBIT A FLOOR PLAN

TOWERSIDE AVENUE



- LEGEND**
- SUITE 201, 202, 203, 204, 205, 207, 208
  - SUITE 201, 213
  - SUITE 204, 203
  - SUITE 209, 210
  - SUITE 201A, 201B, 201C, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000
  - FLOOR SERVICE AREA
  - VENTILATION/NON RENTABLE AREA







## **EXHIBIT B**

### **STANDARD UTILITIES AND SERVICES**

The standards set forth below describe the basic utilities and services which are presently in effect for the Building. City reserves the right to adopt any nondiscriminatory modifications and additions to the standards that do not materially impair Tenant's rights under this Lease or Tenant's use of the Premises. City will give Tenant reasonable advance notice, in accordance with the provisions of this Lease, of any material modifications and additions, which will be subject to the reasonable approval of Tenant.

Subject to the terms and conditions of this Lease, City will provide the following basic utilities and services:

**A. Elevator.** Unattended automatic passenger elevator facilities serving the floor(s) on which the Premises are located, on a 24-hour a day, 7-day a week basis. Freight elevator service is available upon reasonable advance written request, subject to rules and regulations established by City including hours and days of usage.

**B. Ventilation; Heating and Air-Conditioning.** Ventilation to the Premises, and air-conditioning and heating to the Premises in season, Monday through Friday, except holidays generally recognized in the City of San Francisco, from 7:00 a.m. to 6:00 p.m., and at the temperatures and in the amounts as City deems reasonably necessary for the comfortable occupancy of the Premises, subject to applicable Legal Requirements. Tenant will not alter, adjust, tamper with, or in any manner affect the installations or facilities supplying climate control to the Building or the Premises.

**C. Electricity.** Electric current to the Premises on a 24-hours a day, 7-days a week basis, in a quantity as reasonably determined by City to service standard office lighting and normal fractional horsepower office machines. If Tenant's electrical installation or consumption is in excess of the quantity described above, Tenant will reimburse City monthly for the additional consumption. Tenant will not connect any apparatus or device with wires, conduits, or pipes, or other means by which the services are supplied, for the purpose of using additional or extraordinary amounts of the services without the prior written consent of City. At all times, Tenant's use of electric current may not exceed the capacity of feeders to the Building or the risers or wiring installation, except as provided in working drawings to City.

**D. Water.** Water available at current points of supply in public areas for drinking and lavatory purposes only, and hot and cold water in the Premises for drinking and kitchen purposes, on a 24-hours a day, 7-days a week basis.

**E. Janitorial Service.** Building standard janitorial service to the Premises on a 5-day per week basis, Monday through Friday, except holidays generally recognized in the City of San Francisco, provided the Premises are kept reasonably in order by Tenant. Tenant will pay to City any cost incurred by City in excess of the services generally provided for other tenants in the Building. Tenant will pay City the cost of removal of any of Tenant's extraordinary refuse or rubbish.



## EXHIBIT C

### RULES AND REGULATIONS

1. Tenant may not obstruct the sidewalks, halls, passages, exits, entrances, elevators, and stairways of the Building or use them for any purpose other than for ingress to and egress from the Premises. City retains the right to control and prevent access to the halls, passages, exits, entrances, elevators, escalators, and stairways that are not for the use of the general public, and City retains the right to control and prevent access of all persons whose presence in the judgment of City would be prejudicial to the safety, character, reputation, and interests of the Building and its tenants, but that nothing in these Rules and Regulations may construed to prevent access to persons with whom Tenant normally deals in the ordinary course of its business, unless those persons are engaged in illegal activities. Tenant may not go upon the roof of the Building, except in areas that City may designate as "Common Areas" from time to time.
2. No sign, placard, picture, name, advertisement, or notice visible from the exterior of the Premises may be installed or displayed by Tenant on any part of the outside or inside of the Building without the prior written consent of City. City will have the right to remove, at Tenant's expense and without notice, any sign installed or displayed in violation of this rule. All approved signs or lettering on doors will be printed, painted, affixed, or inscribed at the expense of Tenant by a person approved by City, which approval will not be unreasonably withheld. Material visible from outside the Building will not be permitted.
3. The Premises may not be used for the storage of merchandise held for sale to the general public or for lodging. No cooking may be done or permitted by Tenant on the Premises, except that use by Tenant of Underwriters' Laboratory-approved microwave oven and portable equipment for brewing coffee, tea, hot chocolate, and similar beverages is permitted, provided that the use is in accordance with all applicable federal, state and local Legal Requirements.
4. Tenant will not employ any person or persons other than the janitor of City for the purpose of cleaning the Premises, unless otherwise agreed to by City in writing. Except with the written consent of City, no person or persons other than those approved by City will be permitted to enter the Building to clean. Tenant will not cause any unnecessary labor because of Tenant's carelessness or indifference in the preservation of good order and cleanliness. Janitor service will not be furnished on nights when rooms are occupied after 9:00 p.m. unless, by agreement in writing, service is extended to a later hour for specifically designated rooms.
5. City will furnish Tenant with two (2) keys to the Premises, free of charge. City may make a reasonable charge for additional keys and for having locks changed. Tenant will not make or have made additional keys without City's prior written consent, which consent will not be unreasonably withheld or delayed. Tenant will not alter any lock or install any new or additional locking devices without the prior written consent of City. All locks installed in the Premises, excluding Tenant's vaults and safes, or special security areas (which will be designated by Tenant in a written notice to City), will be keyed to the Building master key system. City may make reasonable charge for any additional lock or any bolt (including labor) installed on any door of the Premises. Tenant, upon the termination of its tenancy,

will deliver to City all keys to doors in the Premises. If Tenant loses any keys, Tenant will pay City for the cost of re-keying the Premises.

6. The elevators to be used for the loading of freight will be available to Tenant in accordance with reasonable scheduling as City may deem appropriate. Tenant will schedule with City, by written notice given no less than forty-eight (48) hours in advance, its move into or out of the Building. Moving may occur only on weekend days unless otherwise permitted by City. Tenant will reimburse City upon demand for any additional security or other charges incurred by City as a consequence of Tenant's moving. The persons employed by Tenant to move equipment or other items in or out of the Building must be acceptable to City. The floors, corners, and walls of elevators and corridors used for the moving of equipment or other items in or out of the Building must be adequately covered, padded, and protected, and City may provide padding and protection, at Tenant's expense, if City determines that Tenant's measures or Tenant's movers are inadequate. City will have the right to prescribe the weight, size, and position of all equipment, materials, supplies, furniture, or other property brought into the Building. Heavy objects will, if considered necessary by City, stand on wood strips of thickness necessary to properly distribute the weight of the objects. City will not be responsible for loss of or damage to any of Tenant's property from any cause, and all damage done to the Building by moving or maintaining Tenant's property will be repaired at the expense of Tenant.
7. Tenant may not use or keep in the Premises or the Building any kerosene, gasoline, or flammable, combustible, or noxious fluid or materials or use any method of heating or air conditioning other than those limited quantities necessary for the operation and maintenance of normal office equipment. Tenant will not use, keep, or permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to City or other occupants of the Building because of noise, odors, and/or vibrations, or interfere in any way with other tenants or those having business in the Building.
8. City reserves the right to exclude from the Building between the hours of 6 p.m. and 8 a.m. and at all hours on Saturdays, Sundays, and legal holidays all persons who do not present a pass to the Building signed by City and properly in the possession of the person presenting the pass. City will furnish passes to persons as requested by Tenant in writing. Tenant will be responsible for all persons for whom it requests passes and will be liable to City for all acts of those persons. City will in no case be liable for damages for any error with regard to the admission to or exclusion from the Building of any person. In the case of invasion, mob, riot, public excitement, or other circumstances rendering action advisable in City's opinion, City reserves the right to prevent access to the Building by any action as City may deem appropriate, including closing any doors in the Building.
9. The directory of the Building will be provided for the display of the name and location of tenants and a reasonable number of the principal officers and employees of tenants, but City reserves the right to exclude any other names from the directory. Any additional name that Tenant desires to place upon the directory must first be approved by City and, if so approved, a charge will be made for each name.
10. Tenant may not cut or bore holes for wires in the partitions, woodwork, or plaster of the Premises. Tenant may not affix any floor covering to the floor of the Premises in any manner except as approved by City.



11. No curtains, draperies, blinds, shutters, shades, screens, or other coverings, hangings or decorations may be attached to, hung or placed in, or used in connection with any window of the Building without City's prior written consent. In any event, with the prior written consent of City, the items will be installed on the office side of City's standard window covering and will in no way be visible from the exterior of the Building.
12. Tenant must ensure that the doors of the Premises are closed and locked and that all water faucets, water apparatus, and utilities are shut off before Tenant or Tenant's employees leave the Premises, so as to prevent waste or damage. For any default or carelessness by Tenant must make good all injuries sustained by other tenants or occupants of the Building or City. On multiple-tenancy floors, all tenants must keep the doors to the Building corridors closed at all times except for ingress and egress, and all tenants will at all times comply with any rules or orders of the fire department with respect to ingress and egress.
13. The toilet rooms, toilets, urinals, wash bowls, and other apparatus may not be used for any purpose other than that for which they were constructed, no foreign substance of any kind whatsoever may be deposited in them. The expense of any breakage, stoppage, or damage resulting in any violation of this rule will be borne by Tenant.
14. Except with City's prior consent, Tenant may not sell, or permit the sale from the Premises of, or use or permit the use of any sidewalk or mall area adjacent to the Premises for the sale of, newspapers, magazines, periodicals, theater tickets, or any other goods, merchandise, or service, Tenant may not carry on, or permit, or allow any employee or other person to carry on, business in or from the Premises for the service or accommodation of occupants or any other portion of the Building, and the Premises may not be used for manufacturing of any kind, or for any business or activity other than that specifically provided for in Tenant's lease.
15. Tenant may not install any radio or television antenna, loudspeaker, or other device on or about the roof area or exterior walls of the Building. Tenant will not interfere with radio or television broadcasting or reception from or in the Building or elsewhere.
16. Tenant will not use in any space, or in the common areas of the Building, any hand-trucks except those equipped with rubber tires and side guards or other material-handling equipment as City may approve. No other vehicles of any kind may be brought by Tenant into the Building or kept in or about the Premises.
17. Tenant will store all its trash and garbage within the Premises until it is removed to the location in the Building as designated from time to time by City. No material may be placed in the Building trash boxes or receptacles if the material is of a nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage in the City of San Francisco without being in violation of any Legal Requirements governing its disposal.
18. All loading and unloading of merchandise, supplies, materials, garbage, and refuse will be made only through the entryways and freight elevators and at the times as City may designate. In its use of the loading areas of the Building, Tenant may not obstruct or permit the obstruction of the loading areas, and at no time may Tenant park vehicles in the loading areas except for immediate loading and unloading purposes.

19. Canvassing, soliciting, peddling, or distribution of handbills or any other written material in the Building is prohibited and Tenant will cooperate to prevent the forgoing.
20. Tenant will immediately, upon request from City (which request need not be in writing), reduce its lighting in the Premises for temporary periods designated by City, when required in City's judgment to prevent overloads of the mechanical or electrical systems of the Building.
21. City reserves the right to select the name of the Building and change of name as it deems appropriate from time to time, and Tenant will not refer to the Building by any name other than: (i) the name as selected by City (as the same may be changed from time to time), or (ii) the postal address approved by the United States Post Office. Tenant will not use the name of the Building in any respect other than as an address of its operation in the Building without the prior written consent of the City.
22. Tenant assumes all responsibility for protecting its Premises from theft, robbery, and pilferage, which includes keeping doors locked and other means of entry closed.
23. No vending machine may be maintained or operated within the Premises or the Building without City's prior written consent.
24. All incoming mail and package deliveries will be received at the area in the Building designated by City for that purposes and distributed through means established by City. No messenger or other delivery personnel will be permitted to enter any area of the Building other than the area designated by City for the pick-up and receipt of deliveries.
25. City reserves the right to exclude or expel from the Building any person who is, in the judgment of City, intoxicated or under the influence of alcohol or other drug or who is in violation of any of the Rules or Regulations of the Building.
26. No animal or bird is permitted in the Premises or the Building, except for service animals when in the company of their masters.
27. The requirements of Tenant will be attended to only upon request received by telephone or writing or in person at the management office of the Building. Employees of City will not perform any work or do anything outside of their regular duties unless under special instructions from City.
28. City may waive any one or more of these Rules and Regulations for the benefit of any particular tenant or tenants, but no waiver by City may be construed as a waiver of these Rules and Regulations in favor of any other tenant or tenants, or prevent City from later enforcing any Rules and Regulations against any or all of the tenants of the Building.
29. Wherever the word "Tenant" occurs in these Rules and Regulations, it means Tenant's associates, agents, clerks, employees, and visitors. Wherever the word "City" occurs in these Rules and Regulations, it means City's assigns, agents, officers, employees, and visitors.

30. These Rules and Regulations are in addition to, and will not be construed in any way to modify, alter, or amend, in whole or part, the terms, covenants, agreements, and conditions of any lease of premises in the Building.
31. City reserves the right to make other and reasonable rules and regulations as in its judgment may from time to time be needed for the safety, care, and cleanliness of the Building, and for the preservation of good order.
32. Tenant will be responsible for the observance of all the Rules and Regulations by Tenant's employees, agents, clients, customers, invitees, and guests.





**EXHIBIT D**

**FIRST SOURCE HIRING AGREEMENT**



Definition of Grant Plan  
**FACES SF**

The term "Grant Plan" shall mean

**I. Purpose of Grant**

The Business Services Coordinator offers services to employers to ensure that non-construction hiring opportunities at the San Francisco International Airport (SFO) are made available to job seekers who participate in the San Francisco workforce system.

*The purpose of this grant is for FACES SF to implement employer-focused services that support San Francisco's workforce system and provide access to career opportunities by job seekers served through OEWD's network of Providers. Specifically, FACES SF will organize hiring events, employer spotlights and other events that make job opportunities available to job seekers. FACES SF will coordinate with workforce service providers of the San Francisco workforce system using new technologies, regular communication, and collaborative strategies to maximize participation by job seekers within the workforce system into SFO recruitment and employment opportunities. FACES SF will additionally provide technical assistance for both employers and providers working in the system.*

**Definitions**

DEWD	Department of Economic and Workforce Development, City and County of San Francisco
SF Jobs Portal	The DEWD centralized data base is utilized to both distribute First Source employment opportunities and refer DEWD workforce system candidates to those opportunities
GF	General Funds – City and County of San Francisco Funds used to serve eligible San Francisco residents.
WIOA	Workforce Innovation and Opportunity Act (WIOA) – This Act was signed into law on July 22, 2014. WIOA supersedes the Workforce Invest Act of 1998 (WIA) and amends the Wagner-Peyser Act, the Adult Education and Family Literacy Act, and the Rehabilitation Act of 1973. As with the preceding WIA, the WIOA helps job seekers succeed in the labor market by providing access to employment, education, training, and support services while matching employers with skilled workers they need to compete in a global economy. In addition, the enactment of WIOA provides a new opportunity to ensure that Americas Job Center of California (AJCC) locations remain effective and job driven-- responding to the needs of employers and preparing workers for jobs, now and in the future.
Workforce Investment San Francisco Board (WISF)	Policy and programmatic oversight body for workforce development in San Francisco
First Source	City of San Francisco community benefit program that prioritizes workforce opportunities for local residents

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## **II. Target Population**

This grant is designed to support employers who provide career opportunities for unskilled and semi-skilled individuals that qualify as First Source. These individuals participate in the workforce system and therefore represent the following target populations as identified by WIOA and the WISF:

- Dislocated Workers
- Formerly Incarcerated Individuals
- Homeless Individuals
- People with Disabilities
- Individuals with limited English proficiency
- Veterans
- Survivors of domestic abuse
- Individuals participating in or completing substance abuse treatment
- Public assistance recipients
- Public housing residents
- Low income families

## **III. Description of Services**

The Contractor will plan and implement a centralized SFO Business Services program that targets permanent, temporary and “On-The-Job Training” career opportunities with employers throughout San Francisco, including specialized employment services for special SFO projects. The Contractor will inform employers about providers’ services and how individuals with diverse skill levels can benefit business. The Contractor will be responsible for the day-to-day operations of Business Services Coordination ensuring that programming meets contractual deliverables.

### **A. Employer Services**

The Contractor will tailor delivery of employer-focused Business Services Coordination and other services to meet the workforce needs of employers and provide access to career opportunities by jobseekers served through OEWD’s network of providers

1. The contractor will make available to the OEWD network of providers (Access Points System), via OEWD, technological tools for marketing job candidates and promoting the workforce system to employers. These tools may include labor market information, candidate profile creators, instant communication applications, and job skill and interview assessments.
2. The Contractor will coordinate Recruitment Events to be held at the Access Points. These will include monthly industry-specific or occupational hiring



fairs and a semi-annual SFO Hiring Fair showcasing all SFO employers and opportunities to the general public and/or prospective participants. The Contractor will ensure awareness and participation in these events by all providers within the workforce system and is encouraged to partner with multiple workforce system providers in the implementation of these events.

3. The Contractor will provide technical assistance and business themed workshops to employers. Examples may include "How to make a job more appealing to job seekers, or "How to recruit successfully through the San Francisco workforce system".
4. The Contractor will actively participate in collaborative service planning, implementation, and coordination with other Access Point providers and other workforce system programs and services, including communication, training, marketing and evaluation activities.
5. The Contractor will collect and report data as requested by DEWD.

**B. Direct Job Search, Placement and Retention Services:**

1. The Contractor will proactively seek and publicize employment opportunities to the network of providers within the workforce system. The Contractor will prioritize job opportunities that balance the needs of businesses and the opportunities appropriate to and creating career opportunities for job seekers within the Workforce System.
2. The Contractor will work directly with the hiring authority or human resources representative at SFO businesses to clearly define the specific tasks and responsibilities associated with a new position and the required skills, abilities, education, and any other screening criteria the business may mandate in order to facilitate the referral of the most appropriate candidates.
3. The Contractor will generate employment leads for jobseekers and place jobseekers into employment, and should work closely with DEWD-funded Business Services to leverage first-source local hiring agreements, hiring tax credits and other business service strategies to maximize employment opportunities.
4. The Contractor will assure that assigned program staff have the ability to identify and work with the appropriate workforce providers in order to satisfy employer's specific job requirements, such as bilingual, veterans, individuals with disabilities, immigrant professionals, etc. and to effectively market their customers to local employers, as well as develop and maintain relationships with SFO employers.
5. Job search and placement services will include hiring fairs that connect a group of similarly skilled/educated applicants in immediate need of

placement assistance and businesses that are actively recruiting applicants and are prepared to interview applicants on site.

6. The Contractor will provide businesses with retention services including acting as a liaison between the Workforce System provider and business for any follow-up activities to determine whether a program participant is still actively employed and address any need of additional provider support to achieve positive program participation and employment outcomes.
7. The Contractor will coordinate with all other appropriate service providers to help participants address obstacles to ensure continued employment or address any reasons for job loss, and implement appropriate solutions to secure employment. This will include providing Access Points with regular employer feedback so interventions can be made as needed.
8. The Contractor will implement a follow up strategy that includes a formal process to survey both participants and employers 30 days after a placement has occurred. All hires and employers will be surveyed utilizing the DEWD SF Jobs Portal, once iCIMS (SFO recruiting platform) is fully integrated. Employer satisfaction may also be measured by rates of referral and reuse. Survey responses must be reviewed at the managerial level and Contractor must provide responses and/or develop action plans to address concerns expressed.

### **C. Partner and Employer Development:**

These services initiate, build and maintain regular, continuous relationships and partnerships with service organizations and employers in targeted industries or sectors relevant to the services provided by Access Points.

1. The Contractor will develop and implement strategies that capitalize on the strengths of multiple agencies and organizations working toward common workforce development service goals.
2. The Contractor will represent OEWD at employer events may occur outside of regular business hours (i.e. Chamber of Commerce networking events, etc.)
3. The Contractor will collaborate with Comprehensive, Neighborhood, and Specialized Access Points and other Workforce Service Provider staff to ensure that SFO job postings are filled by Workforce System clients, including On-the-Job Training placements that will be administered by the Comprehensive Access Point.
4. The Contractor will host monthly industry-specific or occupational hiring fairs that showcase SFO employers at the Access Points in an effort to educate customers/participants about available employment and

training opportunities. The Contractor will conduct and coordinate hiring fairs when a group of similarly skilled/educated applicants are in immediate need of placement and are likely to return to the same type of business/industry (as in the case of groups of employees affected by a workforce reduction). Hiring Fairs should only include businesses that are actively recruiting applicants and are prepared to interview applicants on site whenever possible.

#### **D. Requirements**

Business Services Coordinator: In addition to providing services for all of the required, Contractor will meet the following deliverables:

##### **1. General Business Service Responsibilities**

- a. Work with DEWD to establish appropriate policy and procedures around usage of the web-based job matching tool (currently SF Jobs Portal) by various workforce system stakeholders and clients.
- b. Track the number and nature of direct job placements made into SFO job opportunities (including wage, benefits, permanent/full time status, etc.).
- c. Collect data and feedback from employers through event surveys and report on process measures including but not limited to the following areas:
  - i. Increase the number of referrals coming from more NAPs and providers, resulting in higher number of repeat customers and new customers (Employers).
  - ii. Increase system capacity with better trained staff that are able to align higher numbers of job-seekers with the needs of employers
- d. Partner with DEWD and Access Points to raise awareness of the Workforce System and its services with the goal of recruiting socio-economically disadvantaged local residents for SFO positions, including non-construction private and public end-use employers.

##### **2. Data Collection and Evaluation**

- a. The Contractor shall collect, store, review, and report complete and accurate data on programs and services including: operational, administrative and program performance.

The Contractor will be required to enter data (applicant info, placements, applications, events, employer feedback, etc.) into DEWD's First Source data management system within 10 business days following the month that services were provided and ensure complete, accurate, and timely data entry that is in compliance with DEWD's specific funding requirements.

- b. The Contractor must track and report outcome data for all programs and as described below. Contractors are required to gather and report outcome data that will allow for an evaluation as to whether or not participants are well-served as a result of their participation in the program. These measures include:
  - i. The number of hosted events such as hiring fairs, employer spotlights, business focused workshops
  - ii. Number of attendees at aforementioned events
  - iii. Number of placements directly resulting from such events
- c. The Contractor will develop customer satisfaction surveys in an effort to enhance the customer service experience to clients accessing the workforce system. Information from surveys will be shared and discussed with providers to help improve the client experience at DEWD funded programs.

#### **IV. Location and Time of Services**

FACES SF, 1099 Sunnydale, San Francisco, CA 94134; Comprehensive Access Points and other sites as appropriate. Services are rendered during normal business hours.

#### **V. Project Deliverables**

A. The Contractor will develop the following deliverables that will be furnished to DEWD:

1. Business Services Coordinator Policies and Procedures Manual to reflect current scope of services, updated as needed throughout the term of the contract and provided to DEWD upon request.
2. Annual Projection and Placement Plan, due July 2, 2018
3. Sample and master copies of external communication and media, including flyers, job/hiring fair announcements, testimonials and marketing materials, due August 1, 2018
4. Sample copies of workshop and job fair materials, due August 1, 2018
5. Staff roles and responsibilities to reflect current scope of services, due September 4, 2018
6. SFO recruitment plan to reflect current scope of services, including an outreach and marketing for new candidate engagement strategy to grow candidate pipelines who utilize DEWD's workforce services system due September 4, 2018
7. Monthly calendar of activities due last Friday of each month.

#### **V. Service and Outcome Objectives**



The Contractor will meet the following service objectives and provide monthly progress reports for each of these benchmarks:

Activity	# GOAL	Description
Hosting of events, such as job fairs, open houses, and employer spotlights	3 per Month	<i>The Number of events where participants have previously been prepared and prescreened to attend</i>
Number of Workforce System Participants attending Hiring Events	300	<i>Number of Workforce System Participants attending Hiring Events</i>
Placement in Unsubsidized Employment	180	<i>The number of participants who obtained employment at SFO as a result of services used or received through the entire workforce network (all Access Points and other providers).</i>
30-90 Retention Verification	135	<i>The number of participants that were retained at 30 days and 90 days after placement. Employment Verification will count for 30-day follow up.</i>
Feedback from employers on participants interviewed at Hiring Events	225	<i>The number of feedback reports filled out by employers for each participant attending Hiring Fairs</i>

#### VI. Monitoring Activities

Contractor shall make all reasonable efforts to accommodate DEWD and appropriate partners monitoring activities. DEWD will make all reasonable efforts to ensure that such monitoring activities are not unduly disruptive of Contractor's normal course of programs and activities.

- A. **Program Monitoring:** DEWD Program Compliance staff will conduct a minimum of one program monitoring site visit during the program year. Program monitoring may include, but is not limited to, site visits to Contractor and partner facilities, conduct facility review, interviews or surveys of program participants, review of client eligibility, and back-up documentation for reporting progress towards meeting service and outcome objectives.
- B. **Fiscal Compliance and Contract Monitoring:** Fiscal monitoring will include review of the Contractor's organizational budget, the general ledger, quarterly balance sheet, cost allocation procedures and plan, State and Federal tax forms, audited financial statement, fiscal policy manual, supporting documentation for selected invoices, cash receipts and disbursement journals. The compliance monitoring will include

review of Personnel Manual, Emergency Operations Plan, Compliance with the Americans with Disabilities Act, subcontracts, and MOUs, and the current board roster and selected board minutes for compliance with the Sunshine Ordinance.

## VII. Reporting Requirements

As noted in Appendix C, all monthly program and invoice reports should be submitted to:

Grant Coordination Team  
Office of Economic and Workforce Development (DEWD)  
1 South Van Ness Avenue 5<sup>th</sup> Floor,  
San Francisco, CA 94103

### A. Program Performance Reporting

Contractor must enter data, collect information and upload documents in DEWD's data management system by the 10<sup>th</sup> day of each month to credit and capture DEWD Outcomes, Interim Program and Interim Participant Measures. In addition, Contractor shall submit quarterly narrative reports that describe goals versus accomplishments, challenges, share best practices, and plans to achieve contractual goals. Contractor will make every reasonable effort to provide additional or non-customary on data as requested by DEWD.

### B. Fiscal Reporting

Contractor must submit invoices in the format provided by DEWD. Invoice forms submitted should include actual expenditures incurred during the month.

1. The invoice supplied shall include the total dollar amount monthly reports on expenditures, matching funds and funding obligations. Invoices will be tied to the contract budget. *The Invoices and corresponding back-up documentation (all receipts for purchases and expenses incurred and reimbursement being sought) MUST* be submitted no later than the **10<sup>th</sup> day** of the month. Late submissions must be approved in writing by DEWD staff.
2. There shall be no variance from the line item budget submitted which adversely affects program performance as contained in the Contractor's proposal and required in the contract.
3. The invoice shall show by line item:
  - a. Budgeted amount (per contract budget or modification)
  - b. Expenses for invoice period
  - c. Expenses year-to-date
  - d. % of budget expended
  - e. Remaining balance
4. Personnel expenditures will show same line item categories by position. Detail will show last name of employee and position.

5. Executive Directors or CEO or other authorized signatory must certify the invoice is accurate by electronically signing the invoice before it is submitted to DEWD.

Contractor may submit written request for a budget modification to the grant coordinator, and with written approval contractor may adjust the budget.

**C. Close-Out Reporting**

Within 30 days after the end of the contract period, Contractor shall submit a final or receive a final (close-out) report reflecting actual expenditures, which will be supported by the Contractor's accounting records. If a refund is due DEWD, it must be submitted by the final invoice deadline which will be communicated by DEWD annually. Any expenses submitted after the final year end billing deadline communicated by DEWD will not be paid.

**D. Audits**

Contractor is responsible for the arrangement for and payment of any costs associated with audits of its programs. In accordance with OMB Circular A-133 contractor single audits must be submitted to DEWD within nine months after the completion of the program year. If the contractor is not required to submit a single audit in accordance with OMB Circular A-133, contractor agrees to provide DEWD annual accounting of WIA expenditures.

**E. Ad-Hoc Reporting**

Contractor will make every reasonable effort to provide additional or non-customary reports on data as requested by DEWD.

Failure to submit invoices, program reports, audits, close-out reports and requested documents within the times specified in the document or in other written DEWD directives may result in withholding of contract payments in part or full or contract termination.

**VIII. Other Requirements**

**A. Meetings and Trainings**

Contractor will attend all required DEWD meetings and trainings. Contractor will minimally be required to attend one monthly meeting/training per program strategy for which they are contracted.

**B. Capacity Building Activities**

Contractor will participate in OEWD sponsored capacity building meetings, workshops, and convenings. Participation in appropriate (optional and mandatory) capacity building activities, as determined by DEWD, will be considered when Contractor progress is assessed.

**C. Marketing Collateral**

Contractor will create program marketing collateral (flyers, postcards, invitations, etc.) in close collaboration with DEWD and will not

publish/distribute program marketing collateral without prior approval from DEWD. Contractor will ensure that specific program contact information is kept up to date at all times.

**D. Workforce Innovations**

Contractor will utilize and/or disseminate information on DEWD-sponsored tools and services, including but not limited to new job search technologies and resources such as DEWD approved labor exchange database (Currently, the SF Jobs Portal).

**E. Reasonable Accommodation**

DEWD funded programs will ensure that reasonable accommodations are provided to qualified individuals with disabilities. The Contractor shall follow the process to provide reasonable accommodations as it is set forth in DEWD's *Reasonable Accommodation Policy and Procedure Guide*. Further, the Contractor shall notify the DEWD Program Officer and coordinate with the Disability Employment Initiative (DEI) to fulfill reasonable accommodation requests.

• **Cost Reimbursement:**

The cost of this contract is \$200,000. FACES SF will invoice on a monthly basis for costs incurred.

• **Billing:**

- FACES SF will include in their monthly invoice an itemized accounting for all performance fees incurred over the previous month. Performance fees are incurred 30 days after a placement's first date of work, with verification that the employee is still employed with the same employer (i.e. 30 days after their first date of work).
- As verification of the placement, FACES SF must include either a Written Employment Verification Form (provided by DEWD) signed by the employer, or employee pay stub, which shall include first day of work, hours of work per week, and pay rate for the 30 day period of hire, as part of the back-up documentation accompanying the invoice requesting payment for specific placements. As verification of the 30 day employment retention, FACES SF must include either a paystub documenting that the placement was still employed 30 days after the first date of work, or an attestation from the employer to that effect.