

OFFICE LEASE

between

CHOO LAGUNA, LLC  
as Landlord

and

CITY AND COUNTY OF SAN FRANCISCO,  
as Tenant

For the lease of

258 Laguna Street Suite A  
San Francisco, California

May 21, 2014

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EXHIBIT C – Janitorial Services

## OFFICE LEASE

THIS OFFICE LEASE (this "Lease"), dated for reference purposes only as of May 21, 2014, is by and between CHOO LAGUNA, LLC, a California limited liability company ("Landlord"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City" or "Tenant", and together with Landlord, the "Parties").

Landlord and City hereby agree as follows:

### 1. BASIC LEASE INFORMATION

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

Lease Reference Date:	May 21, 2014	
Landlord:	Choo Laguna, LLC	
Tenant:	City and County of San Francisco	
Building ( <u>Section 2.1</u> ):	258 Laguna Street, San Francisco, California	
Premises ( <u>Section 2.1</u> ):	A portion of the first floor of the Building, as shown on <u>Exhibit A</u> .	
Rentable Area of Premises ( <u>Section 2.1</u> ):	Approximately 1,800 rentable square feet	
Term ( <u>Article 3</u> ):	Five (5) years, commencing on July 1, 2014 (the "Commencement Date"), and ending on June 30, 2019 (the "Expiration Date") (sometimes referred to as the "Initial Term"), subject to the Extension Option set forth in <u>Section 3.3</u> below.	
Extension Option ( <u>Section 3.3</u> ):	City shall have the right to extend the Term for an additional term of five (5) years (the "Extended Term"), by providing not less than one hundred eighty (180) days' prior written notice of its exercise of such right to Landlord, on the terms and conditions set forth in <u>Section 3.3</u> .	
Base Rent ( <u>Section 4.1</u> ):	<u>Lease Year</u>	<u>Monthly Base Rent</u>
	7/1/14 – 6/30/15	\$3,500.00 (\$1.94/sf/mo)
	7/1/15 – 6/30/16	\$3,605.00 (\$2.00/sf/mo)
	7/1/16 – 6/30/17	\$3,713.15 (\$2.06/sf/mo)
	7/1/17 – 6/30/18	\$3,824.54 (\$2.12/sf/mo)
	7/1/18 – 6/30/19	\$3,939.28 (\$2.19/sf/mo)
Determination of Base Rent for the Extended Term ( <u>Section 4.2</u> ):	Base Rent for the Extended Term shall be 95% of the then fair market rent as provided in <u>Section 4.2</u> , but in no event less than Base Rent for the month immediately preceding the	

Extended Term.	
Additional Charges ( <u>Section 4.3</u> ):	Landlord shall be responsible for any charges or other amounts required under this Lease ("Additional Charges").
Use ( <u>Section 5.1</u> ):	Office use and related uses by City's Public Defenders Office.
Leasehold Improvements ( <u>Section 6</u> ):	Landlord shall cause the Leasehold Improvement Work to be timely performed, as provided in <u>Section 6.1</u> .
Utilities ( <u>Section 9.1</u> ):	City shall separately arrange for any gas, electricity, telephone and telecommunication, and trash removal utilities and services it requires for the Premises, and shall directly pay the provide of such service. Landlord shall be responsible for all water and sewer utilities and services used by City at the Premises, as provided in <u>Section 9.1</u> .
Services ( <u>Section 9.2</u> ):	Landlord shall provide janitorial services to the Premises at City's cost, not to exceed \$625 per month, subject to any annual increases permitted pursuant to <u>Section 9.2</u> . Landlord shall also provide the pest control services described in <u>Section 9.2</u> at Landlord's sole cost.
Key Contact and Notice Address of Landlord ( <u>Section 23.1</u> ):	Choo Laguna, LLC PO Box 31817 San Francisco, CA 94131 Attn: Mr. Shing Choo
Notice Address for Tenant ( <u>Section 23.1</u> ):	Real Estate Division 25 Van Ness Avenue, Suite 400 San Francisco, CA 94102 Attn: John Updike Director of Property Fax No.: (415) 552-9216
with a copy to:	Office of the Public Defender 555 7 <sup>th</sup> Street San Francisco, CA 94103 Attn: Angela Auyong Telephone No.: (415) 553-1677 Fax No.: (415) 554-1607
and a copy to:	Office of the City Attorney City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, California 94102-4682 Attn: Real Estate and Finance Team Fax No.: (415) 554-4755

Key Contact for Tenant:

John Dunbar  
Office of the Public Defender  
555 7<sup>th</sup> Street  
San Francisco, CA 94103  
Telephone No.: (415) 553-9862

Brokers (Section 23.8):

None

Parking Rights (Section 2.3):

City shall have the exclusive right to use, at all times, the three (3) dedicated assigned parking spaces in the parking lot adjacent to the front of the Premises and depicted in Exhibit A (the "Parking Lot"), and shall have the non-exclusive right to use any unoccupied and unreserved spaces in the remainder of the Parking Lot at any time before 8am or after 7pm, Mondays through Fridays, or at any times on weekends and holidays, as provided in Section 2.3.

Other Noteworthy Provisions (Section 22):

City shall have the right to install and maintain exterior building signage, as provided in Section 22.

## **2. PREMISES**

### **2.1 Lease Premises**

Landlord leases to City and City leases from Landlord, subject to the provisions of this Lease, those premises in the building identified in the Basic Lease Information (the "Building") and shown on the floor plan(s) attached hereto as Exhibit A (the "Premises"). The Premises contain the rentable area and are located on the floor(s) of the Building specified in the Basic Lease Information. The Building, the Parking Lot, the land upon which the Building and Parking Lot are located and all other improvements on or appurtenances to such land are referred to collectively as the "Property."

### **2.2 Common Areas**

City shall have the non-exclusive right to use, together with other tenants of the Building, the public areas of the Property (collectively, the "Common Areas"), and the non-exclusive right of access to and from the Premises by the main entrances to the Property.

### **2.3 Parking Rights**

City shall have the exclusive right to three (3) dedicated assigned parking spaces in the Parking Lot. Landlord shall install a sign designating that such spaces are reserved solely for the use of City and City's visitors. City shall have access to such parking spaces 24 hours per day each day of the Lease Term. In addition to the foregoing, City shall have the right to use, without additional charge, any unoccupied and unreserved spaces in the Parking Lot on Saturdays, Sundays, holidays, and outside of Business Hours (as such terms are defined in Section 9.1) on Mondays through Friday. Landlord shall have the ability from time to time to relocate City's parking spaces in other areas of the Parking Lot, provided that the spaces are accessible, dedicated solely for use by City and City's invitees, and that Landlord installs a sign designating that such spaces are reserved solely for the use of City and City's invitees.

## **2.4 Disability Access**

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. Pursuant to California Civil Code Section 1938, Landlord hereby notifies City that the Premises have not been inspected by a Certified Access Specialist hired by Landlord.

## **2.5 Disability Obligations Notice**

Before you, as the tenant, enter into a lease with us, the Landlord, for the Premises, please be aware of the following important information about the Premises to the extent applicable to City:

(a) You May Be Held Liable for Disability Access Violations at the Premises. Even though you are not the owner of the Premises, you, as the tenant, may still be subject to legal and financial liabilities if the Premises does not comply with applicable Federal and State disability access laws. You may wish to consult with an attorney prior to entering this Lease to make sure that you understand your obligations under Federal and State disability access laws.

(b) The Lease Must Specify Who Is Responsible for Making Any Required Disability Access Improvements to the Property. This Lease includes provisions in which you, as the tenant, and the Landlord agree upon your respective obligations and liabilities for making and paying for required disability access improvements on the Premises. The Lease also requires you and the Landlord to use reasonable efforts to notify each other if they make alterations to the Premises that might impact accessibility under Federal and State disability access laws. You may wish to review those provisions with your attorney prior to entering this Lease to make sure that you understand your obligations under the Lease.

By executing this Lease, City confirms that it has read and understands this Section.

## **3. TERM**

### **3.1 Term of Lease**

The Premises are leased for an initial term (the "Initial Term") commencing on the Commencement Date. The Initial Term of this Lease shall end on the Expiration Date specified in the Basic Lease Information, or such earlier date on which this Lease terminates or is terminated pursuant to the provisions of this Lease, provided that City shall have the right to extend the Initial Term pursuant to Section 3.3 (Extension Option), below. The word "Term" as used herein shall refer to the Initial Term and the Extended Term (as defined in Section 3.3) if City exercises the Extension Option as provided below.

### **3.2 Changes in Commencement Date and Expiration Date**

If the Commencement Date occurs on a date other than July 1, 2014, then promptly thereafter Landlord shall deliver to City a notice substantially in the form of Exhibit B attached hereto, confirming the actual Commencement Date and Expiration Date, but Landlord's failure to do so shall not affect the commencement of the Term.

### **3.3 Extension Option**

(a) City shall have the right to extend the Term of this Lease (the "Extension Option") for the additional term specified in the Basic Lease Information (the "Extended Term"). Such Extension Option shall be on all of the terms and conditions contained in this Lease,



provided that Base Rent shall be adjusted as provided in Section 4.2 below. City may exercise the Extension Option, if at all, by giving written notice to Landlord no later than one hundred eighty (180) days prior to expiration of the Initial Term; provided, however, if City is in material default under this Lease on the date of giving such notice and fails to cure such default as provided in this Lease, Landlord may reject such exercise by delivering written notice thereof to City promptly after such failure to cure.

(b) In the event that Landlord obtains entitlements to substantially redevelop, or submits applications for entitlements to substantially redevelop, all or a part of the Property, Landlord shall have the absolute right to unilaterally terminate this Lease, and all rights and obligations thereunder, at any time during the Extended Term by providing City with three hundred and sixty five (365) days prior written notice ("Early Termination Notice") of such early termination date. Upon any early termination of the Lease pursuant to this paragraph, neither Landlord nor City shall have any further rights, obligations, or liabilities in connection with the Lease except for those obligations which, by the terms of this Lease, survive any termination of this Lease.

#### **4. RENT**

##### **4.1 Base Rent**

Beginning on the Commencement Date, City shall pay to Landlord during the Term the respective amounts of Base Rent specified in the Basic Lease Information (the "Base Rent") for the respective periods set forth therein. The Base Rent shall be payable in equal consecutive monthly payments on or before the first day of each month, in advance, at the address specified for Landlord in the Basic Lease Information, or such other place as Landlord may designate in writing upon not less than thirty (30) days' advance notice. City shall pay the Base Rent without any prior demand and without any deductions or setoff except as otherwise provided in this Lease. If the Commencement Date occurs on a day other than the first day of a calendar month or the Expiration Date occurs on a day other than the last day of a calendar month, then the monthly payment of the Base Rent for such fractional month shall be prorated based on a thirty (30)-day month.

##### **4.2 Determination of Base Rent for the Extended Term**

If the Extension Option has been timely exercised by City pursuant the terms of Section 3.3, upon the commencement of the Extended Term, the Base Rent shall be adjusted to equal the amount(s) that is 95% of the prevailing market rate for space of comparable size and location to the Premises then being offered for rent in other buildings similar in age, location and quality to the Premises situated within the West of Twin Peaks/Laguna Honda area of San Francisco ("Reference Area"). As used herein, the term "prevailing market rate" shall mean the base rental for such comparable space, taking into account (i) any additional rental and all other payments and escalations payable hereunder, (ii) floor location and size of the premises covered by leases of such comparable space, (iii) the duration of the renewal term and the term of such comparable leases, (iv) free rent given under such comparable leases and any other tenant concessions, and (v) building standard tenant improvement allowances and other allowances given under such comparable leases. In no event, however, shall the Base Rent for the Extended Term be less than the Base Rent in place during the month prior to the commencement of the Extended Term.

Within thirty (30) days following City's exercise of the Extension Option, Landlord shall notify City of Landlord's determination of the prevailing market rate for the Premises. If City disputes Landlord's determination of the prevailing market rate, City shall so notify Landlord within fourteen (14) days following Landlord's notice to City of the prevailing market rate and such dispute shall be resolved as follows:

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

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

(c) If only one appraisal is submitted within the requisite time period, it shall be deemed to be the prevailing market rate. If both appraisals are submitted within such time period, and if the two appraisals so submitted differ by less than ten percent (10%) of the higher of the two, then the average of the two shall be the prevailing market rate. If the two appraisals differ by more than ten percent (10%) of the higher of the two, then the two appraisers shall immediately select a third appraiser who will within thirty (30) days of his or her selection make a determination of the prevailing market rate and submit such determination to Landlord and City. This third appraisal will then be averaged with the closer of the two previous appraisals and the result shall be the prevailing market rate.

(d) If City's Director of Property does not approve of the prevailing market rate as determined by the appraisal procedure specified above, the Director of Property may at his or her election revoke the exercise of the Extension Option by City by written notice to Landlord (the "Exercise Revocation Notice") given within thirty (30) days after such determination is made, provided that City shall reimburse Landlord up to \$2,500 of Landlord's reasonable out of pocket costs incurred in obtaining the appraisal.

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

#### **4.3 Additional Charges**

City shall pay to Landlord any charges or other amounts City is required to make to Landlord under this Lease as additional rent ("Additional Charges"), including the charges for janitorial service as provided in Section 9.2. All such Additional Charges shall be payable to Landlord at the place where the Base Rent is payable. Landlord shall have the same remedies for a default in the payment of any Additional Charges as for a default in the payment of Base Rent. The Base Rent and Additional Charges are sometimes collectively referred to below as "Rent." Landlord shall provide City with invoices for all Additional Charges in a format reasonably approved by City.

### **5. USE**

#### **5.1 Permitted Use**

City may use the Premises for general office uses and such other uses as may be specified in the Basic Lease Information, and for no other use without the prior written consent of Landlord, which shall not be unreasonably withheld or delayed.

#### **5.2 Interference with Access**

Landlord shall provide to City access to the Property and the Premises twenty-four (24) hours per day, seven (7) days per week, together with uninterrupted access thereto to the

maximum extent possible, including, without limitation, during any power outages affecting the Premises or any portion of the Building; provided, however, that Landlord may, after consultation with the City's Administrator, interrupt City's access to the Premises or the Property in the event of an immediate threat of the Premises, the Common Areas or any other portion of the Property being rendered unsafe for human occupancy. If City's use of any of the Premises or access thereto is interrupted as a result of the Premises, the Common Areas or any other portion of the Building being rendered unsafe for human occupancy due to Landlord's failure to comply with its obligations under this Lease or for any other reason other than City's default hereunder, then Landlord shall immediately undertake all necessary steps to correct such condition. In the event such condition continues for two (2) business days and impairs City's ability to carry on its business in the Premises, the Rent payable hereunder shall be abated based on the extent to which such interruption of access to the Premises interferes with City's ability to carry on its business at the Premises. If any such interruption of access shall continue for thirty (30) days or more after City's use is interrupted and impairs City's ability to carry on its business in the Premises, then City shall have the right, without limiting any of its other rights under this Lease to terminate this Lease, unless Landlord supplies City with evidence reasonably satisfactory to City that City's normal and safe use will be restored within sixty (60) days of the date City's use was interrupted, and such use is actually restored within such 60-day period. Nothing in this Section shall limit City's rights with respect to any disruption due to casualty pursuant to Section 12 (Damage and Destruction) hereof.

## **6. LEASEHOLD IMPROVEMENTS**

### **6.1 Landlord's Obligation to Perform Leasehold Improvement Work**

Landlord, at Landlord's sole cost and in a good and professional manner in accordance with sound building practice, shall perform the following work (the "Leasehold Improvement Work"): (i) within sixty (60) days of the Commencement Date, replace the carpet and padding throughout the Premises with new carpet and new padding that is of similar quality to the existing carpeting and padding when it was initially installed and of a type and color mutually acceptable to City and Landlord; (ii) within a reasonable period of time following the Commencement Date, but no later than the ninetieth (90<sup>th</sup>) day immediately following the Commencement Date, repair or replace the damaged drywall in the Building locations specified by City, with such repaired or replaced drywall painted to match the areas immediately surrounding such drywall; and (iii) within sixty (60) days of the Commencement Date, complete all changes required to cause the Premises to be in compliance with the following sections of the 2013 California Building Code: (a) Section 11B-213 (Toilet facilities and bathing facilities), (b) Section 11B-213.3.5 (Mirrors), (c) Section 11B-606 (Lavatories and sinks), and (d) Section 11B-606.5 (Exposed pipes and surfaces). Landlord shall perform any portion of the Leasehold Improvement Work that occurs in the office areas of the Premises only on weekends, holidays, or outside of Business Hours on Mondays through Fridays.

Landlord and City shall coordinate approximate dates and times that the Leasehold Improvement Work will be performed by Landlord, and Landlord shall provide City with no less than five (5) business days' prior notice of the Landlord's actual entry on the Premises to perform the Leasehold Improvement Work. City shall cooperate with Landlord in removing and reinstalling all furniture and other personal property from the Premises as reasonably necessary to allow Landlord to perform the Leasehold Improvement Work. Landlord shall have no obligation for performing the Leasehold Improvement Work on the dates specified by Landlord therefor unless the portion of the Premises in which such Leasehold Improvement Work is to be performed is free and clear of any City personal property that would interfere with such performance.

Landlord shall secure and pay for any building and other permits and approvals, government fees, licenses and inspections necessary for the proper performance and completion of the Leasehold Improvement Work. Landlord shall pay prevailing wages in connection with



construction of the Leasehold Improvement Work as further provided in Section 23.24 (Prevailing Wages), below.

## **6.2 Work that Disturbs or Removes Lead-Based Paint**

Landlord, on behalf of itself and its successors, assigns and agents, shall comply with all requirements of the San Francisco Building Code Chapter 34 and all other applicable local, state, and Federal laws, including but not limited to the California and United States Occupational and Health Safety Acts and their implementing regulations, if any of the Leasehold Improvement Work disturbs or removes exterior or interior lead based or "presumed" lead-based paint (as defined below). Landlord and its Agents shall give to City three (3) business days' prior written notice of any disturbance or removal of exterior or interior lead-based or presumed lead-based paint. Landlord acknowledges that the required notification to the Department of Building Inspection regarding the disturbance or removal of exterior lead-based paint pursuant to Chapter 34 of the San Francisco Building Code does not constitute notification to City as Tenant under this Lease and similarly that notice under this Lease does not constitute notice under Chapter 34 of the San Francisco Building Code. Further, Landlord and its Agents, when disturbing or removing exterior or interior lead-based or presumed lead-based paint, shall 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. Landlord covenants and agrees to comply with the requirements of Title 17 of the California Code of Regulations when taking measures that are designed to reduce or eliminate lead hazards. Under this Section, paint on the exterior or interior of buildings built before January 1, 1979 is presumed to be lead-based paint unless a lead-based paint test, as defined by Chapter 34 of the San Francisco Building Code, demonstrates an absence of lead-based paint on the interior or exterior surfaces of such 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 a surface so as to abrade, loosen, penetrate, cut through or eliminate paint from that surface.

## **7. ALTERATIONS**

### **7.1 Alterations by City**

City shall not make or permit any alterations, installations, additions or improvements (collectively, "Alterations") to the Premises without first obtaining Landlord's written consent, which Landlord shall not unreasonably withhold or delay. However, the installation of furnishings, fixtures, equipment or decorative improvements, none of which affect the Building Systems or structural integrity of the Building, and the interior repainting and recarpeting of the Premises shall not constitute Alterations requiring Landlord's consent, provided that the paint and carpet are either the same color as the existing colors or neutral in color. Any Alterations permitted hereunder shall be made at City's cost in compliance with applicable Laws (as defined below). Landlord shall, without cost to itself, cooperate with City in securing building and other permits and authorizations needed in connection with any permitted Alterations. Landlord shall not be entitled to any construction or other administrative fee in connection with any Alteration. City shall not be required to remove any Alterations upon the expiration or sooner termination of this Lease unless Landlord notifies City in writing at the time Landlord approves such Alterations that they must be removed at the Expiration Date, in which case City shall remove the Alterations and repair any damage resulting therefrom.

## **7.2 Title to Improvements**

Except for City's Personal Property (as defined in the next Section), all appurtenances, fixtures, improvements, equipment, additions and other property permanently installed in the Premises as of the Commencement Date or during the Term shall be and remain Landlord's property. City may not remove such property unless Landlord consents thereto.

## **7.3 City's Personal Property**

All furniture, furnishings, equipment, trade fixtures and articles of movable personal property installed in the Premises by or for the account of City and that can be removed without structural damage to the Premises (collectively, "City's Personal Property") shall be and remain City's property. At any time during the Term or at the expiration thereof, City may remove any of City's Personal Property, provided City shall repair any damage to the Premises resulting therefrom. Upon the expiration or earlier termination of this Lease, City shall remove City's Personal Property from the Premises in accordance with Section 20 (Surrender of Premises), below. Landlord acknowledges that some of City's Personal Property may be financed by an equipment lease financing otherwise subjected to a security interest, or owned by an equipment company and leased to City. Landlord, upon City's reasonable request, shall execute and deliver any document, required by any supplier, lessor, or lender in connection with the installation in the Premises of any items of City's Personal Property, pursuant to which Landlord waives any rights it may have or acquire with respect to City's Personal Property, so long as the supplier, equipment lessor or lender agrees that it (i) will remove the Property from the Premises within thirty (30) days after the Expiration Date (but if it does not remove City's Personal Property within such time it shall have waived any rights it may have had to City's Personal Property), and (ii) will repair any damage caused by the removal of City's Personal Property. Landlord shall recognize the rights of any supplier, lessor or lender who has an interest in any items of City's Personal Property to enter the Premises and remove such property at any time during the Term or within thirty (30) days after the Expiration Date.

## **7.4 Alteration by Landlord**

Landlord shall use its best efforts to minimize interference with or disruption to City's use and occupancy of the Premises during any alterations, installations, additions or improvements to the Building, including without limitation any leasehold improvement work for other tenants in the Building. Landlord shall promptly remedy any such interference or disruption upon receiving City's notice thereof.

# **8. REPAIRS AND MAINTENANCE**

## **8.1 Landlord's Repairs**

Landlord shall repair and maintain, at its cost and in first-class condition, the exterior and structural portions of the Building, including, without limitation, the roof, foundation, bearing and exterior walls and subflooring, and the heating, ventilating, air conditioning, plumbing, electrical, fire protection, life safety, security and other mechanical, electrical and communications systems of the Building (collectively, the "Building Systems") and the Common Areas. Without limiting the foregoing, Landlord shall maintain the Building in a clean, safe and attractive manner, shall provide exterior graffiti removal with reasonable frequency, and shall not permit any other tenants of the Building to disturb or interfere with City's use of the Premises or permit to be done in or about the Building or the Common Areas anything that is illegal, is dangerous to persons or property or constitutes a nuisance.

## **8.2 City's Repairs**

Subject to Landlord's warranty under Section 10.1 (Premises Condition), any construction warranties or guaranties received in connection with Landlord's completion of the Leasehold Improvements, and Landlord's repair and maintenance obligations hereunder, City shall repair and maintain at its cost the interior portions of the Premises, and shall keep the Premises in good working order and in a safe and sanitary condition, except for ordinary wear and tear and damage by casualty. City shall make any such required repairs and replacements that Landlord specifies in writing **(i)** at City's cost, **(ii)** by contractors or mechanics selected by City and reasonably approved by Landlord, **(iii)** so that same shall be at least substantially equal in quality, value and utility to the original work or installation prior to damage thereof, **(iv)** in a manner and using equipment and materials that will not materially interfere with or impair the operations, use or occupation of the Building or the Building Systems, and **(v)** in compliance with all applicable Laws, including, without limitation, any applicable contracting requirements under City's Charter and Administrative Code. At all times during the Term of this Lease, Landlord shall, upon reasonable notice by City, afford City and its Agents with access to those portions of the Building which are necessary to maintain or repair the telecommunications and data and computer cabling facilities and equipment installed by City.

## **8.3 Liens**

City shall keep the Premises free from liens arising out of any work performed, material furnished or obligations incurred by City during the Term. Landlord shall have the right to post on the Premises any notices permitted or required by law or that are needed for the protection of Landlord, the Premises, or the Building, from mechanics' and material suppliers' liens. City shall give Landlord at least ten (10) days' prior written notice of commencement of any repair, alterations or construction by City on the Premises.

# **9. UTILITIES AND SERVICES**

## **9.1 Utilities**

Landlord shall furnish the following utilities and services to the Premises: (a) heating, air conditioning and ventilation in amounts required for City's comfortable use and occupancy of the Premises, during the period from 8:00 a.m. to 6:00 p.m., Monday through Friday ("Business Hours"), except holidays generally recognized in San Francisco; (b) electric current in amounts required for normal lighting and for the operation of personal computers and other normal office machines and equipment, on a twenty-four (24) hours-a-day, three hundred sixty-five (365) days-a-year basis ("Daily Basis"); and (c) water for lavatory, kitchen and drinking purposes on a Daily Basis. Landlord shall pay for all water and sewer charges relating to the Premises. City shall separately arrange for any electricity, gas, telephone, telecommunication, and garbage removal services City wishes to have at the Premises, and shall directly pay the provider of such requested services.

## **9.2 Services**

### **(a) Janitorial Service**

Landlord shall provide, at City's cost, janitorial service in accordance with the specifications contained in Exhibit C attached hereto as required by City for use of the Premises. City shall reimburse Landlord for Landlord's cost of providing such janitorial service in an amount not to exceed Six Hundred and Twenty Five Dollars (\$625) per month. Such amount may be increased annually, provided that Landlord delivers supporting documentation of any proposed increase and such increase does not exceed ten percent (10%) of the costs for janitorial services for the previous year. All costs billed to City under this Section 9.2(a) shall be based on Landlord's actual costs without markup. City reserves the right to revise the janitorial

specifications contained in Exhibit C from time to time during the Term, provided that such revisions are not unduly onerous or unreasonable and are sufficient to maintain the Premises in a clean and orderly condition. However, if City proposes revisions in the janitorial specifications pursuant to this Section 9.2(a) and such revisions would cause an increase in Landlord's janitorial costs, then Landlord shall notify City of the amount by which its janitorial costs would increase due to such proposed revisions. If City notifies Landlord that it agrees to pay such increased amount for such revisions, Landlord shall provide such revised janitorial services and City shall reimburse Landlord for such janitorial cost increase.

**(b) Pest Control and Additional Services**

Landlord, at Landlord's sole cost, shall provide monthly pest control services to the Building and Premises. City reserves the right to request that Landlord, at City's cost, perform minor lease-related services or incur additional expenses not covered under this Lease that City may require from time to time, as requested by City in writing and approved by City's Director of Property; provided however, that such costs shall not exceed One Thousand Dollars (\$1,000.00) in any one calendar year. Within sixty (60) days of completion of such additional services or expenses and delivery of receipt therefor to City by Landlord, together with any supporting information reasonably requested by City, City shall reimburse Landlord for such additional services or expenses at the rates agreed upon in advance and in writing.

**9.3 Conservation**

Landlord may establish reasonable measures to conserve energy and water, including automatic light shut off after hours and efficient lighting forms, so long as these measures do not unreasonably interfere with City's use of the Premises.

**9.4 Disruption in Essential Utilities or Services**

In the event of any failure, stoppage or interruption of any utilities or services to be furnished by Landlord hereunder, Landlord shall immediately notify City of such failure, stoppage or interruption, diligently attempt to restore service as promptly as possible and shall keep City apprised of its efforts. In the event Landlord is unable to supply any of the Building's sanitary, electrical, heating, air conditioning, water, elevator, fire protection and security, audio, video or electronic communications, hazard detection and alarm, or other essential services serving the Premises (collectively, "Essential Services") and such inability of Landlord impairs City's ability to carry on its business in the Premises for a period of two (2) or more business days if such failure is in the reasonable control of Landlord or a period of five (5) or more consecutive business days if such failure is not within the reasonable control of Landlord, then the Rent shall be abated based on the extent such inability of Landlord impairs City's ability to carry on its business in the Premises, or, alternatively at City's election, City shall have the option to provide such services and offset the reasonable cost thereof against the Rent next due under this Lease. Such abatement, or right to provide the services and offset against Rent, shall continue until the Essential Services have been restored so that the lack of any remaining services no longer materially impairs City's ability to carry on its business in the Premises. Landlord shall use its best efforts to restore disrupted Essential Services as soon as possible. However, if such failure to provide any Essential Services continues for any reason for thirty (30) days and such failure interferes with City's ability to carry on its business in the Premises, then City may, without limiting any of its other rights or remedies hereunder or at law or in equity, terminate this Lease upon written notice to Landlord, unless Landlord supplies City with evidence reasonably satisfactory to City that the Essential Services will be restored within sixty (60) days of the date City's use was interrupted, and the Essential Services are actually restored within such 60-day period. City shall not be entitled to any abatement of Rent or right to terminate if Landlord's inability to supply Essential Services to City is due solely to the acts, omissions or negligence of City and its Agents. Other than the provision for rent abatement set forth in this Section, Landlord shall not be liable for any claims, costs or damages, including



without limitation, loss or injury to person or property, and City shall not be entitled to any reduction or abatement of rent or other charges hereunder, on account of any unavailability of, or interruption in, the utilities and services described in this Section if such interruption or unavailability is not within the control of Landlord.

## **10. COMPLIANCE WITH LAWS; PREMISES CONDITION**

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

Landlord shall, at all times during the Term, maintain the following at its cost: (a) the physical structure, fixtures and permanent improvements of the Premises (including, without limitation, the Leasehold Improvements) in compliance with the requirements of the Americans With Disabilities Act of 1990 and Title 24 of the California Code of Regulations and all other applicable federal, state, local and administrative laws, rules, regulations, orders and requirements intended to provide equal accessibility for persons with disabilities (collectively, "Disabilities Laws"), and (b) the Premises in compliance with applicable present or future federal, state, local and administrative laws, rules, regulations, orders and requirements (collectively, "Laws"), including, without limitation, Disabilities Laws, Seismic Safety Laws, and Life Safety Laws. Without limiting Section 16.2 (Landlord's Indemnity), Landlord shall Indemnify City against any and all Claims arising out of Landlord's failure to maintain such maintenance pursuant to this Section.

### **10.2 City's Compliance with Laws; Indemnity**

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

### **10.3 City's Compliance with Insurance Requirements**

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

## **11. SUBORDINATION**

At Landlord's option, this Lease shall be subordinated to any mortgage or deed of trust which is now or shall hereafter be placed upon the Premises, and City agrees to execute and



deliver any instrument in a form reasonably acceptable to City, without cost to it, which may be deemed reasonably necessary to further effect the subordination of this Lease to any such mortgage or deed of trust; provided, however, such mortgage or deed of trust shall provide, or the mortgagee or beneficiary thereunder shall agree, in writing in recordable form delivered to City reasonably acceptable to City, that so long as City is not in default under this Lease, the foreclosure of any such mortgage or deed of trust or sale pursuant to exercise of any power of sale thereunder shall not affect this Lease, but such foreclosure or sale shall be made subject to this Lease, which shall continue in full force and effect, binding on City and transferee. Provided that City receives proper written notice of such transfer and the name and address of the transferee, City shall thereafter attorn to the transferee as if such transferee was Landlord under this Lease. If requested, City agrees to execute such documentation as may be reasonably required to further effect the provisions of this Section, and is in a form reasonably acceptable to City, within fifteen (15) business days after receiving Landlord's written request to do so.

## **12. DAMAGE AND DESTRUCTION**

If the Premises, the Building or any Building Systems are damaged by fire or other casualty, Landlord shall repair the same without delay (and if Landlord is then carrying insurance on the Leasehold Improvements or if City at its sole option makes funds available to Landlord, Landlord shall also repair the Leasehold Improvements), provided that such repairs can be made under applicable laws within ninety (90) days after Landlord obtains all necessary permits for such repairs but not later than two hundred ten (210) days after the date of such damage (the "Repair Period"). In such event, this Lease shall remain in full force and effect, except that City shall be entitled to an abatement of Rent while such repairs are being made. Such abatement in Rent shall be based upon the extent to which such damage and the making of such repairs interfere with City's business in the Premises during the Repair Period. Landlord's repairs shall not include, and the Rent shall not be abated as a result of, any damage by fire or other cause to City's Personal Property or any damage caused by the negligence or willful misconduct of City or its Agents. In the event the Building is damaged such that City cannot reasonably operate within the Premises and such damage cannot be repaired within the Repair Period, either party may terminate this Lease by delivering written notice to the other party.

Within twenty (20) days after the date of such damage, Landlord shall notify City whether or not, in Landlord's reasonable judgment made in good faith, such repairs can be made within the Repair Period. If such repairs cannot be made within the Repair Period, then either party hereto may, by written notice to the other given within thirty (30) days after the date of such damage, terminate this Lease as of the date specified in such notice, which date shall be not less than thirty (30) nor more than sixty (60) days after notice is given by Landlord. In case of termination, the Rent shall be reduced by a proportionate amount based upon the extent to which such damage interferes with the conduct of City's business in the Premises, and City shall pay such reduced Rent up to the date of termination. Landlord shall refund to City any Rent previously paid for any period of time subsequent to such date of termination.

Notwithstanding the foregoing, in the event the Premises are damaged or destroyed by reason of flood or earthquake, and such damage or destruction is not fully covered by insurance proceeds payable under the insurance policies Landlord is required to carry hereunder (excluding any deductible, for which Landlord shall be responsible), Landlord may terminate this Lease by written notice to City within thirty (30) days of the date Landlord receives written notice that such damage is not covered by insurance. Such notice from Landlord shall include adequate written evidence of the denial of insurance coverage. If Landlord does not elect to terminate this Lease as provided above, this Lease shall remain in full force and effect, and Landlord shall repair and restore the Premises as provided above.

If at any time during the last six (6) months of the Term of this Lease there is substantial damage that Landlord would be required to repair hereunder, Landlord or City may, at the respective option of each, terminate this Lease as of the date such damage occurred by giving

written notice to the other party of its election to do so within thirty (30) days after the date of such damage; provided, however, Landlord may terminate this Lease only if it would take more than thirty (30) days to repair such damage.

The Parties intend that the provisions of this Section govern fully their rights and obligations in the event of damage or destruction, and Landlord and City each hereby waives and releases any right to terminate this Lease in whole or in part under Section 1932, subdivision 2, Section 1933, subdivision 4, and Sections 1941 and 1942 of the Civil Code of California or under any similar law, statute or ordinance now or hereafter in effect, to the extent such rights are inconsistent with the provisions hereof.

### **13. EMINENT DOMAIN**

#### **13.1 Definitions**

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

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

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

#### **13.2 General**

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

#### **13.3 Total Taking; Automatic Termination**

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

#### **13.4 Partial Taking; Election to Terminate**

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

(b) In the case of a partial taking of a material portion of the Building, and if subsection (a) above does not apply, City and Landlord shall each have the right to terminate this Lease by written notice to the other within thirty (30) days after the Date of Taking, provided

that, as a condition to City's right to terminate, the portion of the Building taken shall, in City's reasonable judgment, render the Premises unsuitable for continued use by City for its intended purposes or otherwise materially adversely affect City's normal operations in the Premises.

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

### **13.5 Rent; Award**

Upon termination of this Lease pursuant to Section 13.3, or pursuant to an election under Section 13.4 above, then: (a) City's obligation to pay Rent shall continue up until the date of termination, and thereafter shall cease, except that Rent shall be reduced as provided in Section 13.6 below for any period during which this Lease continues in effect after the Date of Taking, (b) Landlord shall be entitled to the entire Award in connection therewith, except that City shall receive any Award made specifically for City's relocation expenses or the interruption of or damage to City's business or damage to City's Personal Property, and (c) City shall have no claim against Landlord or the condemnor for the value of any unexpired term of this Lease.

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

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

### **13.7 Temporary Taking**

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

## **14. ASSIGNMENT AND SUBLETTING**

Except as provided in this Section below, City shall not directly or indirectly sell, assign, encumber, pledge or otherwise transfer or hypothecate all or any part of its interest in or rights with respect to the Premises or its leasehold estate hereunder or permit all or any portion of the Premises to be occupied by anyone other than itself or sublet all or any portion of the Premises, without Landlord's prior written consent in each instance, which shall not be unreasonably withheld or delayed. City shall have the right from time to time, upon notice to but without the consent of Landlord, to transfer this Lease or use and occupancy of all or any of the Premises to any department, commission or agency of the City and County of San Francisco for uses permitted under this Lease, provided however, that the use of the Premises remains office use.

## **15. DEFAULT; REMEDIES**

### **15.1 Events of Default by City**

Any of the following shall constitute an event of default by City hereunder:

(a) City's failure to make any timely payment of Rent and to cure such nonpayment within five (5) business days after receipt of written notice thereof from Landlord, provided that for the first two (2) monthly payments of Rent at the beginning of the Term and for the first monthly payment of Rent after the beginning of each new fiscal year for City or any Adjustment Date, City shall have twenty (20) days to cure any such nonpayment after written notice thereof from Landlord;

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

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

### **15.2 Landlord's Remedies**

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

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

(b) The rights and remedies provided by California Civil Code Section 1951.4 (continuation of lease after breach and abandonment), which allows Landlord to continue this Lease in effect and to enforce all of its rights and remedies under this Lease, including the right to recover Rent as it becomes due, for so long as Landlord does not terminate City's right to possession, if City has the right to sublet or assign, subject only to reasonable limitations.

### **15.3 Landlord's Default**

If Landlord fails to perform any of its obligations under this Lease, then (without limiting any of City's other cure rights under this Lease) City may, at its sole option, cure such default at Landlord's expense if such default continues after fifteen (15) days from the date City gives notice to Landlord of City's intention to perform such cure. However, in the case of a default which for causes beyond Landlord's control (excluding any financial inability to perform) cannot with due diligence be cured within such fifteen (15)-day period, such fifteen (15)-day period shall be extended if Landlord, promptly upon receipt of City's notice, advises City of Landlord's intention to take all steps required to cure such default, and Landlord promptly commences such cure and diligently prosecutes the same to completion. Subject to the other provisions of this Lease relating to abatement of Rent, if Landlord fails to cure any default within the cure period provided above, then, whether or not City elects to cure Landlord's default as provided herein, the Base Rent and any other charges hereunder shall be abated based on the extent, if any, to which such default interferes with City's ability to carry on its business at the Premises.



Notwithstanding the foregoing, if any such default by Landlord continues for sixty (60) days and substantially impairs City's ability to carry on its business in the Premises, then City shall have the right to terminate this Lease upon written notice to Landlord within fifteen (15) business days after the expiration of such sixty (60)-day period. City's rights hereunder and under Section 5.2 (Interference with Access), and Section 9.4 (Disruption in Essential Services), shall not limit in any way any of its other rights and remedies hereunder or at law or in equity.

## **16. INDEMNITIES**

### **16.1 City's Indemnity**

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

### **16.2 Landlord's Indemnity**

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

## **17. INSURANCE**

### **17.1 City's Self-Insurance**

Landlord acknowledges that City maintains a program of self-insurance and agrees that City shall not be required to carry any insurance with respect to this Lease. City assumes the risk of damage to any of City's Personal Property, except for damage caused by Landlord or its Agents.

### **17.2 Landlord's Insurance**

At all times during the Term, Landlord shall keep the Building (excluding the land upon which it is located) insured against damage and destruction by fire, vandalism, malicious mischief, sprinkler damage and other perils customarily covered under a cause of loss-special form property insurance policy in an amount equal to one hundred percent (100%) of the full

insurance replacement value (replacement cost new, including, debris removal and demolition) thereof. Landlord shall, upon request by City, provide to City a certificate of insurance issued by the insurance carrier, evidencing the insurance required above. The certificate shall expressly provide that the policy is not cancelable or subject to, reduction of coverage or otherwise subject to modification except after thirty (30) days prior written notice to City. Landlord hereby waives any rights against City for loss or damage to the Premises or any other part of the Property, to the extent covered by Landlord's property insurance.

In addition, Landlord, at no cost to City, shall procure and keep in effect at all times during the Term insurance as follows: **(a)** Commercial general liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for bodily injury and property damage, including contractual liability, independent contractors, broad-form property damage, fire damage legal liability (of not less than Fifty Thousand Dollars (\$50,000)), personal injury, products and completed operations, and explosion, collapse and underground (XCU); and **(b)** Worker's Compensation Insurance with Employer's Liability Limits not less than One Million Dollars (\$1,000,000) each accident.

### **17.3 Waiver of Subrogation**

Notwithstanding anything to the contrary contained herein, Landlord hereby waives any right of recovery against City for any loss or damage sustained by Landlord with respect to the Building or the Premises or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of City, to the extent such loss or damage is covered by insurance which Landlord is required to purchase under this Lease or is otherwise actually recovered from valid and collectible insurance covering Landlord. Landlord agrees to obtain a waiver of subrogation endorsement from each insurance carrier issuing policies relative to the Building or the Premises; provided, Landlord's failure to do so shall not affect the above waiver.

### **18. ACCESS BY LANDLORD**

Landlord reserves for itself and any designated Agent the right to enter the Premises at all reasonable times and, except in cases of emergency (in which event Landlord shall give any reasonable notice to City), after giving City at least twenty four (24) hours' advance written or oral notice, for the purpose of **(a)** inspecting the Premises, **(b)** supplying any service to be provided by Landlord hereunder, **(c)** showing the Premises to any prospective purchasers, mortgagees or, during the last six (6) months of the Term of this Lease, tenants, **(d)** posting notices of non-responsibility, and **(e)** altering, improving or repairing the Premises and any portion of the Building, and Landlord may for that purpose erect, use and maintain necessary structures in and through the Premises where reasonably required by the character of the work to be performed, provided that the entrance to the Premises shall not be blocked thereby, and further provided that City's use shall not be interfered with.

### **19. ESTOPPEL CERTIFICATES**

Either party, from time to time during the Term upon not less than ten (10) days' prior written notice from the other party, may reasonably request the other party to execute, acknowledge and deliver to such persons or entities designated by such other party a certificate stating: **(a)** the Commencement Date and Expiration Date of this Lease, **(b)** that this Lease is unmodified and in full force and effect (or, if there have been modifications, this the Lease is in full force and effect as modified and stating the modifications), **(c)** that there are no defaults under this Lease (or if so, specifying the same), and **(d)** the date to which Rent has been paid.

## **20. SURRENDER OF PREMISES**

Upon the expiration or sooner termination of this Lease, City shall surrender the Premises to Landlord in good order and condition, reasonable use and wear and damage by fire or other casualty excepted. Within ten (10) days after the Expiration Date, City shall remove from the Premises all of City's Personal Property, City's telecommunications, data and computer facilities and any Alterations City desires or is required to remove from the Premises pursuant to the provisions of Section 7.1 (Alterations by City), above. City shall repair or pay the cost of repairing any damage to the Premises or the Building resulting from such removal. Notwithstanding anything to the contrary in this Lease, City shall not be required to demolish or remove from the Premises any of the Leasehold Improvements. City's obligations under this Section shall survive the expiration or earlier termination of this Lease.

## **21. HAZARDOUS MATERIALS**

### **21.1 Definitions**

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

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

(b) "Hazardous Material" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended (42 U.S.C. Section 9601 et seq.), or pursuant to Section 25316 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of the Building or are naturally occurring substances on or about the Property; and petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

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

### **21.2 Landlord's Representations and Covenants**

Landlord represents and warrants to City that, to the best of Landlord's knowledge, the following statements are true and correct and will be true and correct as of the Commencement Date: (a) the Property is not in violation of any Environmental Laws; (b) the Property has been used as a gasoline station and City acknowledges receipt of the Phase II Subsurface Investigation report prepared by AEI Consultants and dated January 7, 2013, disclosing the same; (c) the Property does not consist of any landfill or contain any underground storage tanks; (d) the Building does not consist of any asbestos-containing materials or building materials that contain any other Hazardous Material; (e) there has not been and is currently no Release of any Hazardous Material in the Building or in, on, under or about the Property; and (f) the Property is not subject to any claim by any governmental regulatory agency or third party related to the Release of any Hazardous Material, and there is no inquiry by any governmental agency (including, without limitation, the California Department of Toxic Substances Control or the Regional Water Quality Control Board) with respect to the presence of Hazardous Material in the

Building or in, on, under or about the Property, or the migration of Hazardous Material from or to other real property. Subject to City's obligations under this Section below, Landlord shall maintain the Property throughout the Term in compliance with all Environmental Laws that could affect the health, safety and welfare of City's employees or City's use, occupancy or enjoyment of the Premises for their intended purposes.

### **21.3 Landlord's Environmental Indemnity**

Without limiting Landlord's Indemnity in Section 16.2 (Landlord's Indemnity), above, Landlord shall Indemnify City and its Agents against any and all Claims arising during or after the Term of this Lease (a) as a result of any breach of any of Landlord's representations, warranties or covenants in the preceding Section, or (b) in connection with any presence or Release of Hazardous Material in the Building or on, under or about the Property, unless City or its Agents caused such Release.

### **21.4 City's Covenants**

Neither City nor its Agents shall cause any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or the Property, or transported to or from the Premises or the Property, in violation of any Environmental Laws, provided that City may use such substances in such limited amounts as are customarily used in offices so long as such use is in compliance with all applicable Environmental Laws.

### **21.5 City's Environmental Indemnity**

If City breaches its obligations contained in the preceding Section 21.4, or if City or its Agents cause the Release of Hazardous Material from, in, on or about the Premises or the Property, then City shall Indemnify Landlord against any and all Claims arising during or after the Term of this Lease as a result of such Release, except to the extent Landlord or its Agents is responsible for the Release. The foregoing Indemnity shall not include any Claims resulting from the non-negligent aggravation by City, its Agents or Invitees of physical conditions of the Premises, or other parts of the Property, existing prior to City's occupancy.

## **22. EXTERIOR SIGNAGE**

City shall have the right to install and maintain signage throughout the Term of this Lease, and to install replacement signage, on the exterior of the Building; provided that all signage shall be subject to Landlord's approval (which shall not be unreasonably withheld) with regard to size, design, color, material, content and location, and shall be appropriate for a Class "B" office building and in conformity with the overall design of the Building and the existing tenant signage on the exterior of the Building. The cost of the design, manufacture, installation and maintenance of the signage shall be borne by City. All signage must comply with applicable governmental laws and ordinances and City shall be responsible for obtaining any governmental permits or approvals required for City's signage. Upon the expiration or earlier termination of this Lease, City shall have the right to leave such City signage; provided, however, that Landlord shall have the right to remove such signage at City's expense and to repair and restore, at City's expense the affected areas of the Building to their original condition at the time the signage was installed, ordinary wear and tear and damage from any casualty excepted.

## **23. GENERAL PROVISIONS**

### **23.1 Notices**

Except as otherwise specifically provided in this Lease, any notice given under this Lease shall be in writing and given by delivering the notice in person or by commercial courier, or by sending it by first-class mail, certified mail, return receipt requested, or Express Mail, return



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

### **23.2 No Implied Waiver**

No failure by either party to insist upon the strict performance of any obligation of the other party under this Lease or to exercise any right, power or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such term, covenant or condition. No acceptance of full or partial Rent by Landlord while City is in default hereunder shall constitute a waiver of such default by Landlord. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. The consent of Landlord or City given in one instance under the terms of this Lease shall not relieve the other party of any obligation to secure the consent to any other or future instance under the terms of the Lease.

### **23.3 Amendments**

Neither this Lease nor any terms or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the party against which the enforcement of the change, waiver, discharge or termination is sought. No waiver of any breach shall affect or alter this Lease, but each and every term, covenant and condition of this Lease shall continue in full force and effect with respect to any other then-existing or subsequent breach thereof. Whenever this Lease requires or permits the giving by City of its consent or approval, the Director of Property, or his or her designee, shall be authorized to provide such approval, except as otherwise provided by applicable law, including the Charter of the City and County of San Francisco. Any amendments or modifications to this Lease, including, without limitation, amendments to or modifications to the exhibits to this Lease, shall be subject to the mutual written agreement of City and Landlord, and City's agreement may be made upon the sole approval of 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 of this Lease, and (e) any other amendment or modification which materially increases City's liabilities or financial obligations under this Lease shall additionally require the approval of City's Board of Supervisors.

### **23.4 Authority**

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

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

If applicable, the word "Landlord" as used in this Lease shall include the plural as well as the singular. As used in this Lease, the term "Agents" when used with respect to either party

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

### **23.6 Interpretation of Lease**

The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Lease. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intent and purposes of the Parties, without any presumption against the party responsible for drafting any part of this Lease. Except as otherwise specifically provided herein, wherever in this Lease Landlord or City is required or requested to give its consent or approval to any matter or action by the other, such consent or approval shall not be unreasonably withheld or delayed and the reasons for disapproval of consent shall be stated in reasonable detail in writing. Provisions in this Lease relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or City holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word "including" or similar words shall not be construed to limit any general term, statement or other matter in this Lease, whether or not language of non-limitation, such as "without limitation" or similar words, are used.

### **23.7 Successors and Assigns**

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

### **23.8 Brokers**

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

### **23.9 Severability**

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

### **23.10 Governing Law**

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

### **23.11 Entire Agreement**

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

### **23.12 Attorneys' Fees**

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

### **23.13 Holding Over**

Should City hold over in possession of the Premises after the expiration of the Term with Landlord's consent, such holding over shall not be deemed to extend the Term or renew this Lease, but such tenancy thereafter shall continue as a month-to-month tenancy. Such tenancy shall be on all the terms and conditions set forth in this Lease and at the monthly Base Rent in effect during the last month of the Term of this Lease or such other rental as Landlord and City may mutually agree in writing as a condition to Landlord's consent to such holding over, and City shall continue as a month-to-month tenant until the tenancy shall be terminated by Landlord giving City or City giving Landlord at least thirty (30) days' prior written notice of termination. Should City hold over without Landlord's consent, the rent payable by City during the period of such holding over shall be one hundred ten percent (110%) of the monthly Base Rent in effect during the last month of the Term of this Lease, and such tenancy shall otherwise be on the terms and conditions contained herein.

#### **23.14 Cumulative Remedies**

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

#### **23.15 Time of Essence**

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

#### **23.16 Survival of Indemnities**

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

#### **23.17 Signs**

City may erect or post signs on or about the Premises subject to Landlord's prior approval. Landlord reserves the right to review the placement, design, and plan for any such sign prior to its erection or posting and agrees that the approval thereof shall not be unreasonably withheld or delayed.

#### **23.18 Quiet Enjoyment and Title**

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

#### **23.19 Bankruptcy**

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



### **23.20 Transfer of Landlord's Interest**

Landlord shall have the right to transfer its interest in the Property, the Building or this Lease to any other financially responsible person or entity. In the event of any such transfer, Landlord shall be relieved, upon notice to City of the name and address of Landlord's successor, of any obligations accruing hereunder from and after the date of such transfer and upon delivering to City an express assumption by the transferee of all of such obligations of Landlord.

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

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

### **23.22 MacBride Principles - Northern Ireland**

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

### **23.23 Controller's Certification of Funds**

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

### **23.24 Prevailing Wages for Construction Work**

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

## **23.25 Non Discrimination in City Contracts and Benefits Ordinance**

### **(a) Covenant Not to Discriminate**

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

### **(b) Subcontracts**

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

### **(c) Non-Discrimination in Benefits**

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

### **(d) HRC Form**

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

### **(e) Incorporation of Administrative Code Provisions by Reference**

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

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

### **23.26 Tropical Hardwood and Virgin Redwood Ban**

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

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

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

### **23.27 Bicycle Storage Facilities**

Article 1.5, Section 155.3 of the San Francisco Planning Code (the "Planning Code") requires the provision of bicycle parking at City-leased buildings at no cost to Landlord. During the Term, City shall have the right to install and maintain, at its sole cost, all Class 1 Bicycle Parking Spaces (as defined in the Planning Code) and all Class 2 Bicycle Parking Spaces (as defined in the Planning Code) in the Building locations required under the Planning Code.

### **23.28 Resource-Efficient City Buildings**

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

### **23.29 Counterparts**

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

### **23.30 Effective Date**

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

### **23.31 Certification by Landlord**

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

governmental agency, it shall immediately notify the City of same and the reasons therefor together with any relevant facts or information requested by City. Any such suspension, disbarment, discipline or prohibition may result in the termination or suspension of this Lease. Landlord acknowledges that this certification is a material term of this Lease.

### **23.32 Sunshine Ordinance**

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

### **23.33 Conflicts of Interest**

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

### **23.34 Notification of Limitations on Contributions**

Through its execution of this Lease, Landlord acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Landlord acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Landlord further acknowledges that the prohibition on contributions applies to each Landlord; each member of Landlord's board of directors, and Landlord's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Landlord; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Landlord. Additionally, Landlord acknowledges that Landlord must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Landlord further agrees to provide to City the name of each person, entity or committee described above.

### **23.35 Preservative-Treated Wood Containing Arsenic**

Landlord may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code, Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Landlord may



purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Landlord from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

### **23.36 Cooperative Drafting**

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

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, LANDLORD ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY HERETO UNLESS AND UNTIL CITY'S BOARD OF SUPERVISORS SHALL HAVE DULY ADOPTED A RESOLUTION APPROVING THIS LEASE AND AUTHORIZING CONSUMMATION OF THE TRANSACTION CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS LEASE SHALL BE NULL AND VOID UNLESS CITY'S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS LEASE, IN THEIR RESPECTIVE SOLE AND ABSOLUTE DISCRETION, AND IN ACCORDANCE WITH ALL APPLICABLE LAWS. APPROVAL OF THIS LEASE BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ADOPTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.


[REMAINDER OF PAGE INTENTIONALLY BLANK]

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

LANDLORD:

CHOO LAGUNA, LLC  
a California limited liability company

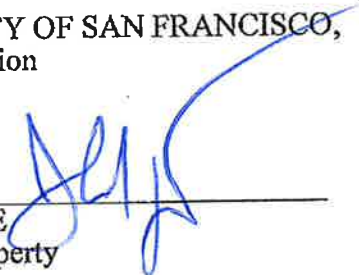
By:

  
Shing Choo, Authorized Signatory

CITY:

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

By:

  
JOHN UPDIKE  
Director of Property

RECOMMENDED:

  
Jeff Adachi  
Office of the Public Defender

APPROVED AS TO FORM:

DENNIS J. HERRERA  
City Attorney

By:


  
Carol Wong  
Deputy City Attorney

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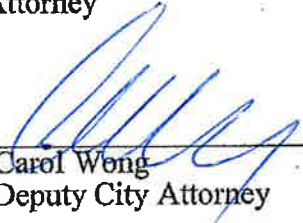
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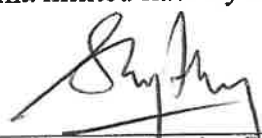
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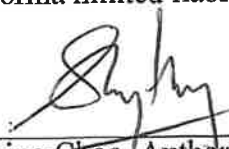
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JOHN UPDIKE  
Director of Property

RECOMMENDED:

\_\_\_\_\_  
Jeff Adachi  
Office of the Public Defender

APPROVED AS TO FORM:

DENNIS J. HERRERA  
City Attorney

By:

\_\_\_\_\_  
Carol Wong  
Deputy City Attorney

**EXHIBIT A**

**Floor Plan(s)**  
Consisting of One Page

[see attached]

**EXHIBIT B**

**Notice of Commencement Date**

[Date]

Mr. John Updike  
Director of Property  
Real Estate Division  
City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102

RE: Acknowledgement of Commencement Date, Lease between CHOO LAGUNA, LLC (Landlord), and the CITY AND COUNTY OF SAN FRANCISCO (Tenant), for premises comprised of the first floor of the building located at 258 Laguna Honda Boulevard Suite A, San Francisco, California.

Dear Mr. Updike:

This letter will confirm that for all purposes of the Lease, the Commencement Date (as defined in Section 3.2 of the Lease) is \_\_\_\_\_, 201\_.

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

Very truly yours,

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Accepted and Agreed:

By: \_\_\_\_\_  
John Updike  
Director of Property

Dated: \_\_\_\_\_



October 17, 2014

Mr. John Updike  
Director of Property  
Real Estate Division  
City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102

RE: Acknowledgement of Commencement Date, Lease between CHOO LAGUNA, LLC (Landlord), and the CITY AND COUNTY OF SAN FRANCISCO (Tenant), for premises comprised of the first floor of the building located at 258 Laguna Honda Boulevard Suite A, San Francisco, California.

Dear Mr. Updike:

This letter will confirm that for all purposes of the Lease, the Commencement Date (as defined in Section 3.2 of the Lease) is July 1, 2014

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

Very truly yours,

  
\_\_\_\_\_

By: SHING CHOO

Title: MANAGER OF CHOO LAGUNA LLC

Accepted and Agreed:

By:   
\_\_\_\_\_  
John Updike  
Director of Property

Dated: 11/17/2014

## **EXHIBIT C**

### **STANDARDS FOR JANITORIAL SERVICE**

#### ***258A Laguna Honda Boulevard***

#### **I. SPECIFICATION OF SERVICES TO BE PERFORMED - SCOPE OF WORK**

- A. Landlord's Contractor shall furnish all labor, materials and equipment required to perform exterior and interior janitorial service five days a week, Monday through Friday, excluding holidays, at the above location in accordance with these specifications:
- B. All windows and glass broken by Landlord's Contractor will be replaced at its expense.
- C. Landlord's Contractor must, at all times, maintain adequate staffing that meets these specifications. All employees must wear uniforms (See Section II). City may request Landlord to remove any janitor from the Premises at any time it desires and for any reason whatsoever, and an immediate replacement will be provided. All written notices are to be submitted to:

City and County of San Francisco  
Office of the Public Defender  
555 7<sup>th</sup> Street  
San Francisco, CA 94103  
Attn.: John Dunbar

- D. All services must be performed after 5:00 p.m.
- E. All employees of Landlord's Contractor shall be fully trained and experienced in the custodial service trade.
- F. Landlord will assign space in the Building to Contractor for the storage of supplies and equipment. Materials and equipment shall be neatly stored only in areas provided by Landlord. No supplies or equipment will be stored in the Premises without the prior approval of City.
- G. City's Recycling Program includes recycling materials from offices in the Building. Bins for recyclable materials can be obtained from City.
- H. Landlord's Contractor will provide, upon Lease Commencement; a schedule for all periodic services specified herein.
- I. Janitorial Service Specifications for Offices and Common Areas.
  - 1. Nightly Services
    - a. Secure all lights as soon as possible each night.
    - b. Vacuum all carpets. Move electric cords to prevent damage to the corner bead.
    - c. Dust mop all resilient and composition floors with treated dust mops. Damp mop to remove spills and water stains as required.
    - d. Spot clean any stains on carpet.
    - e. Dust all desks and office furniture with treated dust cloths.
    - f. Papers and folders on desks are not to be moved.
    - g. Sanitize all telephone receivers.

- h. Empty all waste paper baskets and other trash containers and remove all trash from floors to the designated trash areas. Sort and put ALL RECYCLABLE MATERIAL into bins provided by City.
  - i. Remove fingerprints, dirt smudges, graffiti, etc., from all doors, frames, glass partitions, windows, light switches, and walls.
  - j. Return chairs and waste baskets to proper positions.
  - k. Clean, sanitize and polish drinking fountains.
  - l. Police any interior public planters.
  - m. Dust and remove debris from all metal door thresholds.
  - n. Wipe clean smudged brightwork.
  - o. Spot clean resilient and composition floors as required.
  - p. Service all walk-off mats as required.
  - q. Close all window coverings.
  - r. Check for burned out lights and replace from building stock (supplied by Landlord).
2. Weekly Services
- a. Dust all low reach areas including, but not limited to, chair rungs, structural and furniture ledges, baseboards, window sills, door louvers, wood paneling, molding, etc.
  - b. Dust inside of all door jambs.
  - c. Clean and polish all metal door thresholds.
  - d. Wipe clean and polish all brightwork
  - e. Sweep the service stairwell.
  - f. Damp mop all vinyl bases.
  - g. Edge all carpeted areas.
3. Monthly Services
- a. Dust all high reach areas including, but not limited to, tops of door, frames, structural and furniture ledges, air conditioning diffusers and return grilles, tops of partitions, picture frames, etc.
  - b. Vacuum upholstered furniture.
  - c. Move all plastic carpet protectors and thoroughly vacuum under and around all desks and office furniture.
  - d. Clean and buff all building standard resilient and/or composite flooring.
4. Quarterly Services
- a. Shower-scrub or otherwise recondition all resilient or composition flooring to provide a level of appearance equivalent to a completely refinished floor.
  - b. Wash all chair pads.
5. Semi-Annual Services
- a. Vacuum all window coverings.

- b. Dust light diffusers.
- 6. Annual Services
  - a. Shampoo carpets in offices (schedule to be approved in advance), using products and methods recommended by manufacturer and/or carpet installation contractor.

J. Rest Room Service Specifications

- 1. Daily Service
  - a. Re-stock all rest rooms with supplies from the Landlord's stock, including paper towels, toilet tissue, seat covers and hand soap, as required.
  - b. Re-stock all sanitary napkin and tampon dispensers from Contractor's stock, as required.
  - c. Wash and polish all mirrors, dispensers, faucets, flushometers and brightwork with non-scratch disinfectant cleaner. Wipe dry all sinks.
  - d. Wash and sanitize all toilets, toilet seats, urinals and sinks with non-scratch disinfectant cleaner.
  - e. Remove stains, scale toilets, urinals and sinks, as required.
  - f. Mop all rest room floors with disinfectant, germicidal solution, include scrubbing of all base, inside corners and hard to reach areas.
  - g. Empty and sanitize all waste and sanitary napkin and tampon receptacles.
  - h. Remove all rest room trash.
  - i. Spot clean fingerprints, marks and graffiti from walls, partitions, glass, aluminum and light switches as required.
  - j. Check for burned out lights and replace from building stock (supplied by Landlord).
  - k. Ventilate rest rooms.
- 2. Weekly Services
  - a. Dust all low reach and high reach areas, including but not limited to, structural ledges, mirror tops, partition tops and edges, air conditioning diffusers and return air grilles.
- 3. Monthly Services
  - a. Wipe down all walls and metal partitions. Partitions shall be left clean and not streaked after this work.
  - b. Clean all ventilation grilles.
  - c. Dust all doors and door jambs.
- 4. Quarterly Services
  - a. Thoroughly clean and reseal all ceramic tile floors, using approved sealers.

K. Main Floor Elevator Lobbies and Public Corridors Specifications

1. Nightly Services

- a. Spot clean all glass including low partitions and the corridor side of all windows and glass doors to tenant premises.
- b. Spot clean all chrome brightwork including swinging door hardware, kick plates, base partition tops, handrails, waste paper receptacles, planters, elevator call button plates, hose cabinets and visible hardware on the corridor side of tenant entry doors.
- c. Thoroughly clean all door saddles of dirt and debris.
- d. Empty, clean and sanitize all waste paper baskets and refuse receptacles as required.
- e. Vacuum and spot clean all carpets as necessary.
- f. Spot clean all elevator doors and frames.

L. Exterior Structure and Grounds Services Specifications

1. Daily Service

- a. Spot clean accumulations of dirt, papers and leaves in all corner areas where winds tend to cause collections of debris.
- b. Spot clean all exterior glass at building entrances.
- c. Lift nap on all entry walk-off mats as necessary with a heavy bristle brush and vacuum.
- d. Empty all waste receptacles and remove trash to designated trash areas.
- e. Clean sidewalk, steps and landscaped area, walks and benches; including gum removal.

2. Monthly Weekend Services

- a. Steam clean exterior sidewalk and walk way areas.

M. Carpet Cleaning

1. Provide spot cleaning to tenant space as necessary and shampoo carpets in tenant office space and any common areas once each year (exact schedule to be approved in advance by City).

N. Window Cleaning

1. All work to be performed in accordance with generally accepted industry standards.
2. Proper safety standards are to be maintained at all times, including but not limited to, use of proper warning signs and clean up of water in compliance with all City, State and Federal laws (OSHA).
3. Window cleaning standards are to include clean up of water, wipe down of adjacent window mullions and ledges to prevent streaking, spotting, and excessive runoff.
4. When necessary, drop cloths are to be used to prevent damage to floors and adjacent surfaces.
5. Interior and exterior window washing shall be scheduled immediately prior to Lease Commencement. Interior glass shall be cleaned not less than once



per year. Exterior glass shall be cleaned as needed, but not less than once every six months, including May of each year.

6. Contractor to notify the City for specific scheduling of window washing one week prior to scheduled cleaning.
7. Contractor will be responsible for removing paint and putty etc. from both glass and plastic windows.
8. Exterior surfaces of windows are not to be washed when it is raining.
9. The words "window" and "light" as used herein are synonymous and are to be construed to mean any pane of glass, or glass substitute.

## II. UNIFORMS

- A. Janitors must wear their uniforms whenever on duty.
- B. All personnel, including the coordinator and supervisors, will be uniformed. All personnel shall have a visible company name, logo, badge, etc., on their uniform.

## III. EMPLOYEE SAFETY

Landlord's Contractor shall accept responsibility for determining that all necessary safeguards for protection of Contractor's employees are available, or will be furnished. All work performed must conform to CAL-OSHA standards.

## IV. SUPPLIES

Landlord or its Contractor shall supply floor wax, wax stripper, and other expendable supplies required for daily cleaning and maintenance, as well as janitorial supplies such as hand soap, paper hand towels, paper toilet tissue, paper seat covers and deodorants. Furthermore, Landlord or its Contractor shall supply all equipment including, but not limited to, ladders, vacuum cleaners, extractors, floor machines, mops and buckets.

## V. APPROVAL OF PRODUCTS

City shall have the right to prohibit the use of any product proposed or being used by Landlord's Contractor should the City deem the product to be unsafe or harmful to those items being cleaned or to City's staff. In this regard, Landlord must provide upon request a complete list of products to be used in the course of this Contract, together with Material Safety Data Sheets for each cleaning chemical.

## VI. DISPOSITION OF REFUSE

All trash and refuse collected by the custodians shall be deposited in a debris box as designated by the Landlord. (Landlord will pay for debris box service).

## VII. MAINTENANCE PROBLEMS

Employees of Landlord's Contractor shall note maintenance problems (such as broken glass, light bulbs missing or burned out, inoperative fixtures, etc.) and report them to Landlord. Any problem which prevents performance must be noted in the log (Section VIII) before the end of the shift. Contractor shall not claim, and City will not entertain, any claim that such problems prevented Contractor's performance if said claim is not entered in the log.

## VIII. JANITORIAL LOG

Landlord's Contractor shall provide, and City shall keep, a janitorial log on which deficiencies in performance, special problems or instructions shall be noted. Landlord's Contractor shall check the log daily, as arranged with City, and correct any deficiencies

in service within twenty-four (24) hours of the log entry. Contractor shall initial and date each entry when deficiency has been corrected.

IX. EMERGENCY CONTACT

Landlord's Contractor shall provide City with an emergency telephone number where Contractor may be reached at any time during normal business hours (Monday - Friday, 8:00 a.m. - 5:00 p.m.). Contractor must respond to emergency calls relating to deficiency of service by correcting said deficiency within two hours of receipt of the call.

X. PERFORMANCE

Landlord and its Contractor shall guarantee that workmanship required for the performance of this Contract shall be in accordance with the highest level of workmanship and accomplished according to the highest professional standards. The determination as to the adequacy of performance shall be made by City or the Director of Property, City and County of San Francisco. Contractor or Contractor's agent must be available at reasonable intervals during regular business hours as requested by City, to participate in inspection walk throughs. Contractor will supervise all janitors during all shifts.

XI. VERIFICATION OF SERVICE

City may provide, install, or establish a system of sign off slips, service receipts, or room service sign off cards. Landlord's Contractor shall faithfully comply with same by initialing, dating, and indicating time at which service was completed. It is agreed that no such service has been completed unless signed off by Contractor and countersigned by City if said system so requires.

XII. HOLIDAY SCHEDULE FOR CITY

New Year's Day  
Martin Luther King Day  
President's Day  
Memorial Day  
Independence Day  
Labor Day  
Columbus Day  
Veteran's Day  
Thanksgiving Day  
Friday after Thanksgiving Day  
Christmas Day