

OFFICE LEASE

between

TRINITY CENTER LLC,  
A DELAWARE LIMITED LIABILITY COMPANY  
as Landlord

and

CITY AND COUNTY OF SAN FRANCISCO,  
as Tenant

For the lease of a portion of the 1<sup>st</sup> floor and the entire 8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> floors of 1145 Market  
Street  
San Francisco, California

March, 2024

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## LIST OF EXHIBITS AND SCHEDULES

- EXHIBIT A — Floor Plan(s) of Premises
- EXHIBIT B-1 — Notice of Commencement Date 1<sup>st</sup> Floor OCEIA Space
- EXHIBIT B-2 — Notice of Commencement Date 8<sup>th</sup> Floor D.M.A.C.C. Space
- EXHIBIT B-3 — Notice of Commencement Date Floors 9,10,11 DPH Space
- EXHIBIT C — Rules and Regulations
- EXHIBIT D — Standards for Utilities and Services
- EXHIBIT E — Standards for Janitorial Service
- EXHIBIT F — Standards for Security Service
- EXHIBIT G — Work Letter
- EXHIBIT H — Form of Memorandum of Lease
- EXHIBIT I — List of Purchased personal property

## OFFICE LEASE

THIS OFFICE LEASE (this “**Lease**”), dated for reference purposes only as of March, 1, 2024, is by and between TRINITY CENTER LLC, a Delaware limited liability company (“**Landlord**”), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“**City**” or “**Tenant**”).

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 is deemed to incorporate all of the terms in this Lease pertaining to that item. If there is any conflict between the information in this Section and any more specific provision of this Lease, the more specific provision will control.

Lease Reference Date:	March 1, 2024
Landlord:	TRINITY CENTER LLC, a Delaware limited liability company
Tenant:	CITY AND COUNTY OF SAN FRANCISCO
Building ( <u>Section 2.1</u> ):	13 story office building and the real property upon which it is situated, located at 1145 Market Street, San Francisco, California
Premises ( <u>Section 2.1</u> ):	A portion of the 1 <sup>st</sup> floor of the Building and the entire rentable area of the 8 <sup>th</sup> , 9 <sup>th</sup> , 10 <sup>th</sup> , and 11 <sup>th</sup> floors of the Building, as shown on the attached Exhibit A (together, the “Premises”).
Rentable Area of Premises ( <u>Section 2.1</u> ):	Approximately 45,691 rentable square feet subject to final measurement in accordance with BOMA standards under <u>Section 2.1</u> , consisting of approximately 6,405 rentable square feet on the 1 <sup>st</sup> floor of the Building, approximately 11,358 rentable square feet on the 8 <sup>th</sup> floor of the Building, approximately 10,112 rentable square feet on the 9 <sup>th</sup> floor of the Building, approximately 8,908 rentable square feet on the 10 <sup>th</sup> floor of the Building, and approximately 8,908 rentable square feet on the 11 <sup>th</sup> floor of the Building
Term ( <u>Section 3</u> ):	Estimated Commencement Dates:  May, 2024  Floors 1 and 8  July, 2024

Floors 9, 10, and 11

Expiration date:  
July 31, 2034

Extension Option(s) (Section 3.4):

Two additional terms of 5 years each, exercisable by City by notice to Landlord given not less than 270 days in advance, with Annual Rent determined as outlined in Section 3.4

Base Rent (Section 4.1):

	Annual Rent PSF	Monthly Rent
Year 1	\$29.95	\$ 114,037.12
Year 2	\$30.85	\$ 117,458.23
Year 3	\$31.77	\$ 120,981.98
Year 4	\$32.73	\$ 124,611.44
Year 5	\$33.71	\$ 128,349.78
Year 6	\$34.72	\$ 132,200.28
Year 7	\$35.76	\$ 136,166.29
Year 8	\$36.83	\$ 140,251.27
Year 9	\$37.94	\$ 144,458.81
Year 10	\$39.08	\$ 148,792.58

Initial Monthly payments: \$ 114,037.12 or \$2.50 per sq. ft.)

Base Rent Adjustment; Adjustment Dates (Section 4.2):

On the Anniversary of the Commencement Date or if the Commencement Date was not on the first day of a month, the first day of the month following each anniversary of the Commencement Date

Base Year:

2025

City's Percentage Share (Section 4.4):

34.97%

Use (Section 5.1):

Administrative/general offices of the City

Leasehold Improvements (Section 6) and Work Letter:

~~Landlord shall cause the Leasehold Improvement Work to be performed to the Premises pursuant to Section 6.0 and the Work Letter attached at~~ Exhibit G

Allowance (Section 6.1(i)):

Landlord shall provide an allowance of \$266,445 for the construction of the Leasehold Improvements, full wiring per City



specifications, A/V and security systems per City specifications, paint and carpet per City specifications, LEED certification, moving expenses or furniture, fixtures and equipment required on floors 1 and 8 and any additional improvements required upon review of the space by City as exclusively as provided in Section 6.1.

**Additional Construction Allowance (Section 6.1(k)).**

Landlord shall make available an additional Construction Allowance, not to exceed \$500,000 (the "Additional Construction Allowance") for the construction of Leasehold Improvements, moving expenses or furniture fixtures and equipment. Commencing on the Commencement Date, and continuing until such sum is repaid in full, City shall pay Landlord on a monthly basis, as additional Rent, the sum required to amortize the Additional Construction Allowance on a straight-line basis with interest on unpaid sums at three percent (3%) per annum, over the period commencing on the Commencement Date and ending on the Expiration Date (without regard to the Extension Option) (each such monthly payment, an "Additional Construction Allowance Amortization Payment"). Landlord and City shall confirm in writing the amounts of the Additional Construction Allowance disbursed hereunder and the amounts of the Additional Construction Allowance Amortization Payment(s). City may prepay part or all of the Additional Construction Allowance at any time without pre-payment penalty.

**Utilities (Section 9.1):**

Landlord, at its sole expense, shall provide services to the Premises, including water, electricity and HVAC Monday through Friday 7:00 a.m. to 6:00 p.m.; provided City shall be responsible for its separately sub-metered electric costs. At City's election and City's cost, Landlord shall provide ventilation and other services to the Premises as requested.

**Services (Section 9.2):**

Landlord, at its sole expense, shall provide janitorial services in accordance with specifications attached to this Lease as Exhibit E.

**Notice Address of Landlord (Section 24.1):**

1145 Market Street, 12<sup>th</sup> Floor  
San Francisco, CA 94103  
Attention: Trinity Management Services  
Fax No.: (415) 864-5188  
Paul Wallace

**Landlord's Key Contact:**

Landlord's Key Contact E-Mail:	Paul.Wallace@trinitysf.com
Landlord Contact Telephone No.:	(415) 518-0333
Tenant's Notice Address ( <u>Section 24.1</u> ):	Real Estate Division 25 Van Ness Avenue, Suite 400 San Francisco, California 94102 Attn: Director of Property Re: 1145 Market Floors 1, 8-11
and to:	Office of the City Attorney City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4682 Attn: Real Estate & Finance Team Re: 1145 Market Floors 1, 8-11 Fax No.: (415) 554-4757
Tenant's Key Contact:	Andrico Penick
Tenant Contact Telephone No.:	(415) 554-9850
Tenant's Alternate Contact:	Jeff Suess
Alternate Contact Telephone No.:	(415) 554-9873
Brokers ( <u>Section 24.8</u> ):	None

## 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 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. As used in this Lease, the term "**rentable area**" means that measurement of interior floor area computed in accordance with the "Office Buildings: Standard Methods of Measurements" (ANSI/BOMA Z65.1-2017) **METHOD A** adopted by the Building Owners and Managers Association (the "BOMA Standard"). The Building, the land on which the Building is located, and all other improvements on or appurtenances to the land are referred to collectively as the "**Property**."

Within thirty (30) days following the Commencement Date, City may cause the Premises to be remeasured in accordance with the BOMA standard specified above to confirm the rentable area of the Premises. If the remeasurement of the Premises shows that the Premises contain more or less than the total rentable square feet specified in the Basic Lease Information, then City will notify Landlord of the results of the remeasurement and the Base Rent and City's Percentage Share. Landlord and City will enter into an amendment to this Lease confirming the adjustment and any changes necessitated by the change in rentable area. If Landlord disagrees with the remeasurement, then Landlord and City will meet and confer with one another and attempt to agree on the proper measurement of the Premises within thirty (30) days after City's

notice to Landlord of the results of the remeasurement. If, following that period, Landlord and City are still unable to agree, Landlord and City will jointly select an independent consultant, experienced in measurements of leased space under the BOMA Standard, to remeasure the space, and the determination of that consultant will be binding on the parties. Landlord and City will share equally the cost of the consultant.

## **2.2 Common Areas**

City has the non-exclusive right to use, together with any other tenants in the Building, the lobbies, corridors, elevators, stairways, and other public areas of the Building and the Property (collectively, the “**Common Areas**”), and the non-exclusive right of access to and from the Premises by the main entrances to the Building and the Property.

## **2.3 Loading Dock**

City shall have a non-exclusive right to reasonably shared proportional use of the Building loading dock and elevator fitted for freight, together with other tenants in the Building, during the period of 7:00 a.m. to 6:00 p.m., Monday through Friday, except holidays officially recognized by City. Reasonable use shall require that the City coordinate its deliveries and not have more than one delivery per day, which requires items to be placed in the loading dock area without Landlord’s reasonable consent. In the event normal operation of the Building prevents reasonably prompt use of an elevator fitted for freight, deliveries may be temporarily left in the loading dock area, provided they are promptly removed when an elevator fitted for freight becomes available. City shall provide reasonable advance notice of the anticipated delivery of any items which cannot be transported promptly by hand-truck or cart to the Premises, and Landlord and City shall cooperate to schedule such delivery at a time that would be convenient to City, but would minimize interference with the use of the elevator by Landlord and other tenants. The loading dock area is generally closed and secure, but any items left there are the responsibility of Tenant and Landlord does not warrant the security or safety of the area.

## **2.4 Condition of the Premises on Delivery**

Landlord will deliver the Premises to City in good, broom clean condition, fully demised, water tight, with all Building Systems (as defined in Section 8.1 (Landlord’s Repairs)) in good working order, condition, and repair, and all other systems in and serving the Premises in good working order, condition, and repair, and the Premises, the Building, and the Common Areas in compliance with all applicable Laws, as provided in Section 10.1 (Landlord’s Compliance with Laws; Premises Condition; Indemnity) with the Leasehold Improvements (as defined below) substantially completed by Landlord and confirmed by City under Section 6.1 (Landlord’s Obligation to Construct Improvements).

## **2.5 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.

Landlord discloses (i) Landlord has not been issued a disability access inspection certificate as described in California Civil Code (“**CC**”) Section 55.53(e), (ii) pursuant to CC Section 1938, that Landlord has not ordered, performed, or caused to be performed, a Certified Access Specialist (“**CASp**”) inspection of the Premises (sometimes referred to as “premises” or “subject premises” for the herein disclosures), and (iii) Landlord makes the following statutory disclosure per CC Section 1938 (the required “**CASp Disclosure**”):

“A Certified Access Specialist (CASP) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.”

If City elects to obtain an inspection, City and Landlord will mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the CASp inspection fee, and the cost of any repairs necessary to correct violations of construction-related accessibility standards.

### **3. TERM**

#### **3.1 Term of Lease**

The Premises are leased for a term (the “**Term**”) commencing on the date that Landlord has delivered in the condition required under this Lease with the Leasehold Improvements (as defined below) substantially completed by Landlord and confirmed by City pursuant to the terms of Section 6.1 (Landlord’s Obligation to Construct Improvements) (“**Commencement Date**”), the Landlord may provide substantially completed floors, for specific user groups, as described in the Basic Lease Information, and will be the “**Commencement Date**” for those completed floors and which may not be before the Effective Date, as provided in Section 24.22 (Effective Date) The Term will end on the expiration date specified in the Basic Lease Information, or the date that this Lease is earlier terminated under the provisions of this Lease, unless City extends the Term pursuant to Section 3.4 (Extension Option(s)), below.

#### **3.2 Commencement Date and Expiration Date**

The dates that the Term commences for any Floor of the Premises and expires under this Lease are the “**Commencement Date**” and the “**Expiration Date**.” If the Commencement Date(s) occurs on a date other than the Estimated Commencement Date provided in the Basic Lease Information, then Landlord will promptly deliver to City a notice substantially in the form of the attached Exhibit B confirming the actual Commencement Date(s), but Landlord’s failure to do so will not affect the dates of commencement or expiration of the Term.

#### **3.3 Delay in Delivery of Possession**

Landlord will commercially reasonable efforts to deliver possession of the Premises in the condition required under this Lease, with all of the Leasehold Improvements substantially completed and accepted by City’s Director of Property under Section 6.1 (Landlord’s Obligation to Construct Improvements) on or before the Estimated Commencement Date. If Landlord is unable to deliver possession of the Premises by the Estimated Commencement Date, then, subject to the provisions of this Section below, the validity of this Lease will not be affected by Landlord’s inability to deliver possession except that City’s obligations to pay Rent will not commence until the Commencement Date. If the Commencement Date is later or earlier than the Estimated Commencement Date, this Lease will still expire on the Expiration Date, unless sooner terminated under the provisions under this Lease. If Landlord is unable to deliver possession of the Premises to City as required under this Lease within One Hundred and Eighty (180) days after the applicable estimated Commencement Date, then, by written notice to Landlord, City may terminate this Lease, without any further liability to Landlord or City.

### 3.4 Extension Option(s)

Landlord grants City the right to extend the Term (the “**Extension Option(s)**”) for the additional term(s) specified in the Basic Lease Information (the “**Extended Term(s)**”). The Extended Term(s) will be on all of the terms and conditions contained in this Lease. City may exercise an Extension Option, if at all, by giving written notice (the “**Extension Notice**”) to Landlord no later than two hundred seventy (270) days before expiration of the Term to be extended; 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 and when required under this Lease,, then Landlord may reject City’s Extension Notice promptly after such failure to cure. If City extends the Term as provided in this Section, then the word “Term” will mean and include any Extended Terms.

## 4. RENT

### 4.1 Base Rent

Beginning on the Delivery Date (as defined below) for a specific floor (each, a “**Rent Commencement Date**”) and during the Term, City will pay to Landlord monthly Base Rent specified in the Basic Lease Information (the “**Base Rent**”). The Base Rent will be payable in consecutive monthly payments based on the total square footage for which the Rent Commencement Date has occurred, 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 on not less than thirty (30) days’ advance notice. City will pay the Base Rent monthly and without any deductions or setoff except as otherwise provided in this Lease. Landlord shall deliver to the City, a monthly invoice not less than ten (10) nor more than thirty (30) days prior to the first day of such month. 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 the fractional month will be prorated based on a thirty (30)-day month.

### 4.2 Adjustments in Base Rent

On each date specified in the Basic Lease Information for the adjustment of Base Rent (an “**Adjustment Date**”), the Base Rent payable under Section 4.1 (Base Rent) will be adjusted as described in the Basic Lease Information.

### 4.3 Determination of Base Rent for the Extended Term

(a) At the commencement of any Extended Term, the Base Rent will be adjusted to equal ninety-five percent (95%) of the then 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 Building (“**Comparable Space**”) situated within the Civic Center area of San Francisco (“**Reference Area**”) As used in this Section, “**prevailing market rate**” means the base rent for Comparable Space, taking into account (i) any additional rent and all other payments and escalations payable under this Lease, (ii) floor location and size of the premises covered by leases of the Comparable Space, (iii) the duration of Extended Term under this Lease and the term of the leases for Comparable Space, (iv) free rent and any other tenant concessions given under the leases for Comparable Space, (v) base year operating expenses, (vi) brokerage commissions and (vii) building standard tenant improvement allowances and other allowances given under the leases for Comparable Space.

(b) Within thirty (30) days after City’s exercise of the Extension Option, Landlord will notify City of Landlord’s determination of the prevailing market rate for the Premises, together with reasonable supporting documentation. If City disputes Landlord’s determination of

the prevailing market rate, City will notify Landlord within fourteen (14) days after Landlord's notice to City of the prevailing market rate and the dispute will be resolved as follows:

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

(ii) If within that thirty (30)-day period Landlord and City cannot agree on the prevailing market rate, then each will select one appraiser to determine the prevailing market rate. Within thirty (30) days after the expiration of the thirty (30)-day consultation period, each party will cause its appraiser to prepare and complete an appraisal report determining the prevailing market rate and submit the report to Landlord and City.

(iii) If only one appraisal report is submitted within that thirty (30)-day period, then the prevailing market rate determined in that appraisal report will be used to establish the Base Rent for the Extended Term. If both appraisal reports are submitted within the thirty (30)-day period, and the prevailing market rates differ by less than ten percent (10%) of the higher of the two, then the average of the two will be the prevailing market rate. If the prevailing market rates in the two appraisal reports differ by more than ten percent (10%) of the higher of the two, then the two appraisers will immediately select a third appraiser. Within thirty (30) days after selection, the third appraiser will determine which of the first two appraisal reports specified a value closest to the actual fair market value, which will be the prevailing market rate. The determination of the third appraiser will be final and binding on the parties.

(iv) If City's Director of Property does not in good faith believe that the prevailing market rate as determined by the appraisal procedure specified above is accurate, the Director of Property may revoke City's exercise of the Extension Option within ten (10) days after such determination.

(v) All appraisers must be "MAI" designated members of the Appraisal Institute with not less than five (5) years' recent experience appraising leases of commercial properties similar to the Premises in the Reference Area. Landlord and City will each pay the cost of the appraiser it selects and one-half of the cost of the third appraiser.

#### **4.4 Additional Charges**

City shall reimburse Landlord on a monthly basis upon receipt of appropriate invoices as additional rent for the following: (i) electrical charges payable by City as set forth in Section 9.2 (c) (Electricity), and (ii) the after-hours or excess services and utilities costs as set forth in Section 9.2 (e) (after Hours and Additional Services). In addition, City shall pay to Landlord as additional rent City's percentage share increases in Real Estate Taxes and Operating Costs over the Base Year as provided in Section 4.5 through Section 4.8 below. All of the reimbursements payments and charges referred to in this Section 4.4 are collectively referred to as the "Additional Charges" All Additional Charges shall be payable to Landlord in the same place and in the same manner as 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, and Additional Construction Allowance Amortization Payments, if any, are sometimes collectively referred to as "**Rent**."

#### **4.5 Definitions**

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

(b) "**City's Percentage Share**" means the percentage specified in the Basic Lease Information.

(c) **“Expense Year”** means each calendar year commencing January 1st of each year during the Term, including any partial year in which this Lease commences; provided that Landlord, on advance written notice to City, may change the Expense Year to any other twelve (12) consecutive month period and, in the event of a change, City’s Percentage Share of Operating Costs will be equitably adjusted for the Expense Years involved in the change. Expense Year does not include the Base Year.

(d) **“Operating Costs”** means the total reasonable and prudent costs and expenses actually paid or incurred by Landlord in connection with the management, operation, maintenance, and repair of the Building, including, but not limited to: (1) the cost of air conditioning, electricity, steam, water, sewer, heating, mechanical, telephone, ventilating, and elevator systems and all other utilities, (2) the cost of repairs and all labor and material costs related to general maintenance, cleaning, and service contracts, including without limitation all supplies, tools, and equipment for that maintenance, cleaning, and service, (3) the cost incurred by Landlord for all insurance required to be carried on the Building or the use or occupancy thereof, (4) wages, salaries, payroll taxes, and other labor costs and employee benefits relating to Landlord’s employees or its Agents (defined in Section 24.5 (Parties and Their Agents, Approvals) below) engaged in the operation, repair, or maintenance, of the Building, allocated in proportion to the percentage of that person’s working time actually spent working in connection with the Building, (5) reasonable management fees in an amount not to exceed 5% of base rent under this Lease of the Building, (6) fees, charges, and other costs of all independent contractors engaged by Landlord, allocated in proportion to the percentage of that person’s working time actually spent working in connection with the Building, (7) accounting and legal expenses, (8) depreciation on personal property, including without limitation carpeting in public corridors and Common Areas and window coverings provided by Landlord, (9) the fair market rental value of offices in the Building for the property manager, and (10) costs of capital repairs, capital improvements, and equipment (A) required by applicable Laws enacted on or after the date of this Lease amortized over the useful life of the improvement and/or equipment, together with interest at the actual interest rate incurred by Landlord in connection those capital repairs, improvements, or equipment, unless caused by Landlord’s deliberate or negligent violation of applicable Laws, and except to the extent the improvements are attributable to or are made for the primary benefit of a tenant or occupant other than City, or (B) acquired to cause, in Landlord’s good faith judgment, an immediate (i.e., commencing within the first year after completion of the repairs or improvements or installation of equipment) reduction in other Operating Costs, amortized over the useful life of the repairs, improvements, or equipment at an annual rate reasonably calculated to equal the amount of Operating Costs to be saved in each calendar year throughout the Term (as determined at the time Landlord elected to proceed with the capital repair or improvement or acquisition of the capital equipment to reduce Operating Costs), together with interest at the actual interest rate incurred by Landlord, and (11) any other expenses reasonably incurred in connection with the management, operation, maintenance or repair of the Building (other than Real Estate Taxes and any services for which Landlord is separately and directly reimbursed by City or other tenants in the Building) which would, under generally accepted accounting principles, be considered an operating expense.

In the event that in the Base Year for Operating Costs or in any Expense Year the Building is less than one hundred percent (100%) occupied, the Operating Costs shall be appropriately adjusted to reflect a one hundred percent (100%) occupancy level. In no event shall Landlord recapture more than one hundred percent (100%) of the Operating Costs in any Expense Year.

**(e) “Operating Costs” expressly do not include the following:**

**(i)** Costs of capital repairs, capital improvements, and capital equipment ordinarily considered to be of a capital nature, except as expressly permitted under clause (10) above;

**(ii)** Rentals and other related expenses for items (except when needed in connection with normal repairs and maintenance of permanent systems) that, if purchased rather than rented, would constitute a capital improvement that is specifically excluded in item (i) above (excluding, however, equipment not affixed to the Building that is used in providing janitorial or similar services);

**(iii)** Depreciation, amortization, and interest payments (including interest, principal, points, and fees on debt or amortization payment on any mortgages, deeds of trust, or other debt instruments) except to the extent permitted under clause (8) or (10) above and except on materials, tools, supplies, and vendor-type equipment purchased by Landlord to enable Landlord to supply services Landlord might otherwise contract for with a third party where the depreciation, amortization, and interest payments would otherwise have been included in the charge for the third party’s services, all as determined in accordance with sound real estate accounting principles, consistently applied.

**(iv)** Costs incurred by Landlord for the repair of damage to the Building, to the extent that Landlord is reimbursed by insurance proceeds (excluding any deductible) and costs occasioned by the exercise of the right of eminent domain;

**(v)** Costs for which the Landlord is reimbursed (other than as a reimbursement of Operating Costs or similar provision) under any warranty, or by any tenant or occupant of the Building, or by insurance by its carrier or any tenant’s carrier, or by anyone else;

**(vi)** Costs, including permit, license, and inspection costs, incurred for the installation of improvements made for other tenants or occupants of the Building or incurred in renovating or otherwise improving, decorating, painting, or redecorating vacant space for tenants or occupants in the Building;

**(vii)** Leasing commissions, attorneys’ and other professionals’ fees, space planning costs, and all other costs and expenses in connection with negotiations with present or prospective tenants or other occupants in the Building or any present or future ground lessors or holders of any mortgages or other encumbrances affecting any of the Building;

**(viii)** Leasing commissions, attorneys’ fees, costs, and disbursements and other expenses incurred in connection with negotiations or disputes with tenants or other occupants or prospective tenants or other occupants, or associated with the enforcement of any leases or costs of the defense of Landlord’s title to the Building;

**(ix)** Expenses in connection with services or other benefits that are not offered to City or for which City is charged directly but that Landlord provides to another tenant or occupant of the Building;

**(x)** Costs incurred by Landlord resulting from any dispute under the terms and conditions of any lease, ground lease, mortgage, or deed of trust, or covenants, conditions, or restrictions encumbering the Building, or any violation of applicable Laws by Landlord or any other tenant or occupant of the Building;

**(xi)** Costs incurred in connection with upgrading the Building to comply with disabled access, life, fire and safety codes in effect before the reference date of this



Lease, and costs incurred in connection with upgrading the Building to comply with the Americans with Disabilities Act, as amended, Title 24 of the California Code of Regulations (or its successor), the San Francisco Sprinkler Ordinance and the San Francisco Unreinforced Masonry Building Ordinance;

(xii) Payments for management or other services in or to the Building, or for supplies or other materials to Landlord's subsidiaries or affiliates, to the extent that the costs of the services, supplies, or materials exceed the costs that would have been paid had the services, supplies, or materials been provided by parties unaffiliated with the Landlord on a competitive basis;

(xiii) Any ground lease rental or rental under any other underlying leases;

(xiv) Except as specifically permitted under clause (10) above, interest, principal, points, and fees on debts or amortization on any mortgage, deed of trust, or any other debt instrument encumbering any of the Building;

(xv) Any compensation paid to clerks, attendants, or other persons in commercial concessions operated by Landlord or in any parking facility at or for the Building;

(xvi) All items and services for which City, any other tenant or occupant of the Building or anyone else reimburses Landlord (other than through a party's proportionate share of Operating Costs or similar charges), or that Landlord provides selectively to one or more other tenants or occupants without reimbursement, or that are not provided in reasonable proportion to the Premises but that Landlord provides to another tenant or other occupant of the Building;

(xvii) Advertising or promotional expenditures, and the costs of acquiring and installing signs in or on any of the Building identifying the owner of the Building or any tenant or occupant of the Building;

(xviii) Costs of any electric power used by any tenant in the Building for which the tenant directly contracts with the local public service company or of which any tenant is separately metered or submetered and pays Landlord directly (and if any tenant in the Building contracts directly for electric power service or is separately metered or submetered during any portion of the relevant period, the total electric power costs for the Building must be "grossed up" to reflect what those costs would have been had each tenant in the Building used a commercially reasonable, standard amount of electric power;

(xix) Services provided, taxes attributable to, and costs incurred in connection with the operation of retail, restaurant, and garage operations in the Building;

(xx) "in-house" legal or accounting fees;

(xxi) Real Estate Taxes, exclusions from Real Estate Taxes as set forth in the definition of that term below, and any tax penalties incurred as a result of Landlord's inability or unwillingness to make tax payments when due;

(xxii) Costs arising from the presence of Hazardous Material in, under, or about the Building including groundwater or soil conditions;

(xxiii) Landlord's charitable or political causes or candidates;

(xxiv) To the extent the following costs arise during any applicable warranty periods, costs as a result of repairs of latent defects in the design or original construction of the Building;

(xxv) Costs for sculpture, paintings, or other objects of art;

(xxvi) Costs arising from claims, disputes, or potential disputes, including tax disputes where the tenants of the Building would receive benefits if Landlord prevails, in connection with potential or actual claims, litigation, or arbitrations pertaining to Landlord or the Building, including all attorneys' fees and costs of settlement, judgments, and other similar payments;

(xxvii) All direct cost of refinancing, selling, exchanging, or otherwise transferring ownership of any portion of the Building or any interest in any portion of the Building, including broker commissions, attorney's fees, and closing costs;

(xxviii) Reserves for bad debts, rent loss, capital items, future improvements, repairs, or additions, Real Estate Taxes, or Operating Costs;

(xxix) The wages and benefits of any employee who does not devote substantially all of employee's employed time to the Building unless the wages and benefits are prorated to reflect time spent on operating and managing the Building vis-a-vis time spent on matters unrelated to operating and managing the Building;

(xxx) Landlord's general corporate overhead and general and administrative expenses not related to the operation or management of the Building and all costs associated with the operation of the business of the ownership or entity that constitutes "Landlord," as distinguished from the costs of Building operations, management, maintenance or repair; and

(xxxi) Any other expense that under customary real estate accounting practices would not be considered a maintenance or operating expense.

(f) **"Real Estate Taxes"** means all taxes, assessments, and charges levied assessed or imposed on or with respect to the Building (or portion thereof) owned by Landlord, or Landlord's interest in the Building. Real Estate Taxes include, without limited, all general or special real property taxes and general and special assessments, fees or taxes imposed upon or levied against rents, charges, fees, or assessments for transit, housing, police, fire, or other governmental services, service payments in lieu of taxes that are now or later levied or assessed against Landlord by the federal, state, or local government, district or public corporation, and will also include any other tax, fee, or other excise, however described, that may be levied or assessed as a substitute for, or as an addition to, in whole or in part, any other Real Estate Taxes. Real Estate Taxes (and Operating Costs) expressly do not include: (1) franchise, real property transfer, other transfer, inheritance, business registration, payroll expense, or capital stock taxes, or income taxes measured by the net income of Landlord from all sources unless, due to a change in the method of taxation, any of those taxes are levied or assessed against Landlord as a substitute for, or as an addition to, in whole or in part, any other tax that would otherwise constitute a Real Estate Tax, (2) any penalties, fines, interest, or charges attributable to the late payment of any taxes, except to the extent attributable to City's failure to pay its portion of Real Estate Taxes, (3) any personal property taxes payable by City or by any other tenant or occupant of the Building, or (4) any increase in Real Estate Taxes due to improvements to another tenant's premises in the Building or another tenant's leased space reverts to Landlord. Notwithstanding

anything to the contrary contained herein, in the event that Landlord shall have the right to receive an exemption from all or a portion of any such tax, such as the Early Care and Education Commercial Rents Tax imposed under Article 21 of the Business and Tax Regulations Code (gross receipts received from leases to government entities are exempt from this tax), then Landlord shall credit against Real Estate Taxes, the portion of such exemption that Landlord may receive from Tenant's share of Real Estate Taxes.

(g) **"Tax Year"** means each calendar year during the Term, including any partial year during which this Lease commences; provided that, by notice to City, Landlord may change the Tax Year from time to time to any other twelve (12) consecutive month period and, in the event of that change, City's Percentage Share of Real Estate Taxes will be equitably adjusted for the Tax Year during the change.

#### **4.7 Adjustments to Base Year**

(a) **Operating Costs.** If the Building is not at least one hundred percent (100%) occupied during all or a portion of the Base Year or any Expense Year, then Landlord will make an appropriate adjustment to the components of Operating Costs for that year to determine the amount of Operating Costs that would have been incurred had the Building been one hundred percent (100%) occupied; and the amount Landlord determines will be deemed to have been the amount of Operating Costs for that year. If Landlord does not carry earthquake or terrorism insurance for the Building during the Base Year but subsequently obtains earthquake or terrorism insurance for the Building during the Lease Term, then from and after the date that Landlord obtains earthquake or terrorism insurance, as the case may be, and continuing throughout the period during which Landlord maintains that insurance, Operating Costs for the Base Year will be deemed to be increased by the amount of the premium Landlord would have incurred had Landlord maintained that insurance for the same period of time during the Base Year.

(b) **Taxes.** If a new type of Real Estate Tax is imposed or the method of calculating a particular Real Estate Tax is modified after the Base Year, then Real Estate Taxes for the Base Year will be adjusted on a basis consistent with sound real estate accounting principles, to reflect Real Estate Taxes as if the new type of tax or method had been in effect in the Base Year. If the property tax assessment for the Building or Real Estate Taxes for the Base Year or any Expense Year does not reflect an assessment or Real Estate Taxes for a 100% occupied building, then Real Estate Taxes for the Base Year or Expense Year (as applicable) will be adjusted to reflect Real Estate Taxes for a 100% occupied Building. If, during the initial three (3) years of the Term of this Lease, the Building is sold or improved and the Building is reassessed, the Real Estate Taxes for such three (3) years will be grossed up for the Base Year to reflect what they would have been had the Real Estate Taxes been calculated based on the reassessment value but thereafter the Base Year shall no longer be so grossed up.

#### **4.8 Calculation of Operating Costs and Real Estate Taxes**

(a) **Calculation of Operating Costs.** The calculation of Operating Costs will be made in accordance with customary real estate accounting principles. With respect to the costs of capital repairs, improvements, or equipment included in Operating Costs under clause (10) of the definition of Operating Costs, those costs will be included in Operating Costs only after the capital Improvement is completed and put into service and will be amortized over the useful life of the capital improvements, together with interest on the unamortized balance at a rate per

annum equal to three percent (3%) over the Treasury Rate charged at the time the capital improvement is constructed, but not more than the maximum rate permitted by law at the time the capital improvement is constructed. Landlord will not collect or be entitled to collect Operating Costs from all of its tenants in the Building an amount that is more than 100% of the Operating Costs actually paid by Landlord in connection with the Building.

(b) Calculation of Real Estate Taxes. The calculation of Real Estate Taxes will be made in accordance with sound real estate accounting principles. The amount of Real Estate Taxes for the Base Year and any Expense Year will be calculated without taking into account any decreases in real estate taxes obtained in connection with any Proposition 8 reduction in Real Estate Taxes, and, therefore, the Real Estate Taxes in the Base Year and/ or an Expense Year may be greater than those actually incurred by Landlord, but nonetheless will be the Real Estate Taxes due under this Lease; provided that (i) any costs and expenses incurred by Landlord in securing any Proposition 8 reduction will not be deducted from Real Estate Taxes or included in Operating Costs for purposes of this Lease, and (ii) tax refunds under Proposition 8 will not be deducted from Real Estate Taxes or refunded to City, but will be Landlord's sole property.

#### **4.9 Payment of City's Percentage Share of Operating Costs**

Commencing the first month after the end of the Base Year, City will pay to Landlord each month, as Additional Charges, one twelfth (1/12) of City's Percentage Share of the amount, if any, by which Operating Costs for each Expense Year exceed the Operating Costs for the Base Year. City will make the payments, in advance, in an amount estimated by Landlord in reasonable detail in a writing delivered to City by November of the previous year. Landlord will update its estimates of Operating Costs during an Expense Year if done in a writing delivered to City prior to May 1st, and City shall thereafter make payments on the basis of such revised estimates, commencing on the first day of the calendar month which is thirty days after City's receipt of the revised estimate. Upon Tenant's written request, Landlord shall furnish Tenant with such back-up information as Tenant reasonably requests concerning any particular expense. With reasonable promptness not to exceed sixty (60) days after the expiration of each Expense Year, Landlord will furnish City with a statement ("**Landlord's Expense Statement**"), setting forth in reasonable detail the actual Operating Costs for the Expense Year and City's Percentage Share. If City's Percentage Share of the actual Operating Costs for the Expense Year exceeds the estimated Operating Costs paid by City for that Expense Year, City will pay to Landlord (whether or not this Lease has terminated) the difference between the amount of estimated Operating Costs paid by City and City's Percentage Share of the actual Operating Costs within thirty (30) days after the receipt of Landlord's Expense Statement. If the total amount paid by City for its Percentage Share of Operating Costs exceeds City's Operating Costs Share of the actual Operating Costs for the Expense Year, the excess will be credited against the next installments of City's Percentage Share of Operating Costs or refunded to City, at City's option.

#### **4.12 Payment of City's Percentage Share of Real Estate Taxes**

Commencing the first month after the end of the Base Year, City will pay Landlord each month, as Additional Charges, one twelfth (1/12) of City's Percentage Share of the amount, if any, by which Real Estate Taxes for each Tax Year exceed Real Estate Taxes for the Base Year. City will make those payments, in advance, in an amount estimated by Landlord in reasonable detail in a writing delivered to City. With reasonable promptness not to exceed thirty (30) days

after Landlord has received the tax bills for any Tax Year, Landlord will furnish City with a statement ("**Landlord's Tax Statement**") setting forth the actual amount of Real Property Taxes for the Tax Year and City's Percentage Share. If City's Percentage Share of the actual Real Estate Taxes for the Tax Year exceeds the estimated Real Estate Taxes paid by City for that Tax Year, City will pay to Landlord (whether or not this Lease has terminated) City's Percentage Share of the actual Real Estate Taxes within thirty (30) days after the receipt of Landlord's Tax Statement. If the total amount of estimated Real Estate Taxes paid by City for the Tax Year exceeds City's Percentage Share of the actual Real Estate Taxes, the excess will be credited against the next installments of City's Percentage Share of Real Estate Taxes, or at City's option, the excess will be refunded to City.

#### **4.13 Proration**

If the earliest Commencement Date or Expiration Date occurred on a date other than the first or last day of a Tax Year or Expense Year, then City's Percentage Share of Real Estate Taxes or Operating Costs for the Tax Year or Expense Year in which the Commencement Date or Expiration Date occurs, will be prorated based on a three hundred sixty-five (365)-day year.

#### **4.14 Audits**

After not less than five (5) business days' notice to Landlord, City may audit the books and records of the Building related to Operating Costs and Real Estate Taxes. If the audit discloses any discrepancies that would result in a reduction of City's Percentage Share of Operating Costs for any Expense Year, Landlord will immediately refund to City the amount of any overpayment by City. City will pay the cost of the audit, but if an audit discloses any discrepancies that result in a reduction of City's Percentage Share of Operating Costs and/or Real Estate Taxes by three percent (3%) or more for any Expense Year or Tax Year, then Landlord will pay the costs of the audit.

#### **4.15 Records**

Landlord will maintain at the Building or at its offices in San Francisco in a safe, complete, and organized manner all of its records related to this Lease, Real Estate Taxes, Operating Costs, and any other charges paid by City under this Lease, for at least three (3) years after the Expiration Date or earlier termination of the Term. Landlord will maintain the records on a current basis and in sufficient detail to facilitate adequate review and audit. All books and records will be available for inspection, copying, and audit by City and its representatives, at City's expense, subject to the provisions of Section Error! Reference source not found. (Audits).

#### **4.16 Payments by City**

Landlord acknowledges that City cannot make any payments to Landlord unless Landlord is qualified as an approved vendor in City's financial and payment system. Therefore, City will not be in default of any monetary obligation under this Lease and no interest or late charge will apply, if Landlord is not an approved vendor with City. More information about being an approved vendor with City is available at <https://sfcitypartner.sfgov.org/Vendor/BecomeSupplier>. All Rent that has accrued while Landlord was not an approved vendor will be payable within twenty (20) days after City receives Landlord's written notice and the Contract Monitoring Division confirms that Landlord has been approved as a City vendor.

#### **4.17 Landlord's Compliance with City Business and Tax Regulations Code**

Landlord acknowledges that under Section 6.10-2 of the San Francisco Business and Tax Regulations Code, the City Treasurer and Tax Collector may require the withholding of payments to any vendor that is delinquent in the payment of any amounts that the vendor is required to pay the City under the San Francisco Business and Tax Regulations Code. If, under that authority, any payment City is required to make to Landlord under this Lease is withheld, then City will not be in breach or default under this Lease, and the Treasurer and Tax Collector will authorize release of any payments withheld under this paragraph to Landlord, without interest, late fees, penalties, or other charges, upon Landlord coming back into compliance with its San Francisco Business and Tax Regulations Code obligations.

#### **4.18 Additional Services**

City may request that Landlord provide or arrange for additional services for the Premises, which Landlord may provide or arrange in its reasonable discretion. If Landlord elects to provide the requested additional services and City has approved the cost and scope of those services in advance, then City will pay Landlord as Additional Charges the cost of those services. Landlord may not contract for or provide any services (and City will not be obligated to pay for such services) without City's prior written approval of the cost of the additional services (which may be the known costs, or an hourly rate and maximum number of hours, or a cost estimate with a not-to-exceed maximum amount) in writing before Landlord incurs any costs. City will pay for the cost of the additional services within thirty (30) days after receipt of an invoice; provided, however, that City may elect to provide any deposit or other prepayment that City determines is appropriate given the nature of the requested services. Any additional terms for the additional services will be memorialized by a written agreement, which, upon execution by Landlord and City, will be considered a part of this Lease.

### **5. USE**

#### **5.1 Permitted Use**

City may use the Premises for general office uses and any other uses specified in the Basic Lease Information, and for no other use without Landlord's prior written consent, which may not be unreasonably withheld, conditioned, or delayed. City shall not use the Premises for any public distribution of income or similar benefits, lab, medical or counseling treatment, parole offices, youth counseling, public access to social services, or any other high traffic use without Landlord's prior written consent, which Landlord may withhold in its sole discretion.

#### **5.2 Observance of Rules and Regulations**

City will observe the rules and regulations for the Building attached to this Lease as **Exhibit C** (the "**Rules and Regulations**"), but the provisions of this Lease will govern over any conflicting Rules and Regulations. City acknowledges that all visitors to the Premises must sign in at the Security Desk, and agrees to indemnify Landlord against any lawsuits, claims or judgments resulting from the imposition of such security requirement, except to the extent that Landlord or Landlord's security personnel are found to have engaged in willful misconduct. Landlord may make reasonable changes to the Rules and Regulations, but all changes must be applicable to all other Building tenants and the changes may not (a) reduce Landlord's obligations under the Lease, (b) conflict with the provisions of this Lease, (c) materially increase City's burdens or obligations, (d) impose a charge on City for services that this Lease expressly states are to be provided to City at no charge, or (e) materially adversely affect any permitted use of the Premises. The changes permitted under this Section will be binding on City within a reasonable implementation period after delivery of Landlord's written notice of the changes to City. Landlord will administer the Rules and Regulations in a fair and nondiscriminatory

manner and use reasonable efforts to cause other Building tenants to comply with them. City will be entitled upon request to any waiver of or special dispensation granted by Landlord to any other tenant in the Building with respect to the Rules and Regulations and Landlord shall notify City of any such waiver or special dispensation.

### **5.3 Interference with Access**

Landlord will provide to City uninterrupted access to the Building and the Premises to the maximum extent possible twenty-four (24) hours per day, seven (7) days per week, including during any power outages affecting the Premises or any portion of the Building; but Landlord may, after consultation with City's Administrator, interrupt City's access to the Premises or the Building if there is an immediate threat that will render the Premises, the Common Areas, or any other portion of the Building unsafe for human occupancy. If City's use of any of the Premises or access to the Premises is interrupted because the Premises, the Common Areas, or any other portion of the Building is unsafe for human occupancy due to Landlord's failure to comply with its obligations under this Lease or for any other reason other than an Event of Default, then Landlord will immediately undertake all necessary steps to correct the condition. If the condition continues for five (5) or more consecutive business days and impairs City's ability to carry on its business in the Premises, then the Rent payable hereunder will be abated based on the extent to which such default interferes with City's ability to carry on its business at the Premises. If the condition continues for thirty (30) days or more after City's use is interrupted or impaired then, without limiting any of its other rights under this Lease, City may 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 after the date City's use was interrupted or impaired, and City's full use is actually restored within that sixty (60)-day period. Nothing in this Section will limit City's rights with respect to any disruption due to casualty under Section 12 (Damage and Destruction).

## **6. LEASEHOLD IMPROVEMENTS**

### **6.1 Landlord's Obligation to Construct Improvements**

Landlord, through its general contractor reasonably approved by City, will perform the work, and make the installations in the Premises as provided in the Work Letter attached as Exhibit G (the "**Work Letter**"). All work and installations performed under the Work Letter are referred to as the "**Leasehold Improvement Work**" and the "**Leasehold Improvements.**"

### **6.2 Installation of Telecommunications and Other Equipment**

Any installation of telecommunications, data, and computer cabling facilities and equipment will be as detailed in the Work Letter. City and Landlord will use their good faith efforts to coordinate any all activities to allow the Leasehold Improvements and the installation of the facilities and equipment to be completed in a timely and cost-effective manner.

## **7. ALTERATIONS**

### **7.1 Alterations by City**

City may not make or permit any alterations, installations, additions, or improvements (collectively, "**Alterations**") to the Premises without first obtaining Landlord's written consent, which Landlord will not unreasonably withhold, condition, or delay. Installation of furnishings, fixtures, equipment, or decorative improvements that do not affect the Building Systems or structural integrity of the Building, and the repainting and recarpeting of the Premises do not constitute Alterations and do not require Landlord's consent. Any Alterations permitted under this Lease will be made at City's cost in compliance with applicable Laws (as defined in

Section 10.1 (Landlord's Compliance with Laws)). Without cost to itself, Landlord will cooperate with City in securing building and other permits and authorizations needed for any permitted Alterations. Landlord will not be entitled to any construction or other administrative fee in connection with any Alteration. City will not be required to remove any Alterations on the expiration or sooner termination of this Lease unless Landlord notifies City in writing at the time Landlord approves the Alterations that they must be removed. City is not required to remove any improvements not requiring Landlord's consent.

## **7.2 Title to Improvements**

Except for City's Personal Property (as defined in the next Section) and the Leasehold Improvements, all appurtenances, fixtures, improvements, equipment, additions, and other property permanently installed in the Premises as of the Commencement Date or during the Term will be and will remain Landlord's property. City may not remove Landlord's property without Landlord's written approval.

## **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 City and that can be removed without structural damage to the Premises (collectively, "**City's Personal Property**") are and will remain City's property. City's Personal Property includes furniture, fixtures and equipment existing in the Building prior to the Effective Date, purchased by City from Landlord and identified in Exhibit I

At any time during the Term, City may remove any of City's Personal Property, and City will repair any damage to the Premises resulting from that removal. On the expiration or earlier termination of this Lease, City will remove City's Personal Property from the Premises in accordance with Section 20 (Surrender of Premises). 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 ("**Secured Personal Property**"). Landlord recognizes the rights of any supplier, lessor, or lender who has an interest in any items of Secured Personal Property to enter the Premises and remove that Secured Personal Property at any time during the Term or within thirty (30) days after the Expiration Date. On City's reasonable request, Landlord will execute and deliver any document required by any supplier, lessor, or lender in connection with the installation of any item of Secured Personal Property in the Premises, under which Landlord waives any right it may have or acquire with respect to the Secured Personal Property, so long as the supplier, equipment supplier, lessor, or lender agrees that it (i) will remove the Secured Personal Property from the Premises within thirty (30) days after the Expiration Date (and if it does not remove the Secured Personal Property within that time the equipment supplier, lessor, or lender will have waived any rights it may have had to the Secured Personal Property), and (ii) will repair any damage caused by the removal of the Secured Personal Property.

## **7.4 Alteration by Landlord**

Landlord will 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 any leasehold improvement work for other tenants in the Building. Landlord will promptly remedy any interference or disruption on receiving City's notice thereof.



## **8. REPAIRS AND MAINTENANCE**

### **8.1 Landlord's Repairs**

At its cost, Landlord will repair and maintain the exterior and structural portions of the Building in first-class condition, including, the roof, foundation, bearing and exterior walls, windows, doors, door frames, demising 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 will maintain the Building in a clean, safe, and attractive manner, will provide exterior graffiti removal with reasonable frequency, and will 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 under this Lease, City will repair and maintain at its cost the interior portions of the Premises and will keep the Premises in good working order and in a safe and sanitary condition, except for ordinary wear and tear and damage by casualty or condemnation. City will make any required repairs and replacements to the interior of the Premises that Landlord specifies in writing **(a)** at City's cost, **(b)** by contractors or mechanics selected by City and reasonably approved by Landlord, **(c)** so that the interior portions of the Premises will be at least substantially equal in quality, value, and utility to the original work or installation before the damage, **(d)** 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 **(e)** in compliance with all applicable Laws, including any applicable contracting requirements under City's Charter and Administrative Code. At all times during the Term, promptly after City's reasonable notice, Landlord will provide City and its Agents with access to those portions of the Building that are necessary to maintain or repair the telecommunications and data and computer cabling facilities and equipment installed by City.

### **8.3 Liens**

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

## **9. UTILITIES AND SERVICES**

### **9.1 Landlord's Provision of Utilities**

Landlord will 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 7:00 a.m. to 6:00 p.m., Monday through Friday, except holidays officially 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"**); **(c)** elevator service on a Daily Basis; and **(d)** water for lavatory, kitchen,

and drinking purposes on a Daily Basis. During the Term, Landlord will provide freight elevator service on City's reasonable request. Without limiting Landlord's obligations under this Section, Landlord will furnish all utilities and services required under this Lease in a manner consistent with utilities and services normally provided in other first-class buildings similar to the Building in the San Francisco Civic Center District.

## **9.2 Services**

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

At its cost, Landlord will provide janitorial service in accordance with the specifications contained in the attached **Exhibit E**.

### **(b) Security Service**

At its cost, Landlord will provide security for the Building in accordance with the specifications contained in the attached **Exhibit F**.

### **(c) Electricity**

Landlord shall provide electricity to the Premises as described in Section 9.1 above. City shall pay the actual cost (without markup) of electricity use within the Premises, as measured by submeters, or e-mon d-mon, to Landlord on a monthly basis, as Additional Charges, within thirty (30) days after presentation of an invoice showing the usage and the charge therefor. City shall not connect any apparatus or device with wires, conduits or pipes or other means by which the services are supplied, for the purposes of using extraordinary amounts of the service (in excess of the amount required for use of the Premises for ordinary general office purposes) without the prior written consent of Landlord. At all times, City's use of electrical current shall not exceed the capacity of feeders to the Building or the risers or wiring installation, except provided in working drawings approved by Landlord and City.

### **(e) Plant Maintenance Services**

None.

### **(f) Other Services**

Landlord shall provide at its cost other typical office building services including but not limited to pest control, refuse removal, signage for the Building in accordance with and at a level comparable to the services provided in other first-class office buildings similar to the Building in the San Francisco Civic Center District.

### **(g) After Hours and Additional Services**

At City's request Landlord shall provide lighting and ventilation in amounts required for City's comfortable use and occupancy of the Premises, during the period from 7:00 a.m. to 6:00 p.m. on Saturdays, and City shall reimburse Landlord for Landlord's cost of providing such services (as reasonably estimated by Landlord) together with an administration fee of fifteen percent (15%) of such cost, all as further provided on Exhibit D (Standards for Utilities and Services). Landlord shall provide City with invoices for all Saturday heating, air conditioning and ventilation services and other services in a format reasonably approved by City. City shall not alter, adjust or tamper with the installations or facilities supplying climate control to the Building or the Premises.

Further, City shall have the right to request the Landlord perform Lease related services or incur additional expenses not covered under this Lease that City may require from time to time as requested by City's Real Estate Division in writing. City shall reimburse Landlord for such expense, at rates agreed upon in advance. In accordance with any such agreement, the cost of the additional services shall be reimbursed by City when incurred by Landlord.

### **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**

If any failure, stoppage, or interruption of any utilities or services to be furnished by Landlord occurs, Landlord will immediately notify City of the failure, stoppage, or interruption; diligently attempt to restore service as promptly as possible; and keep City apprised of its efforts. If 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 that inability of Landlord impairs City's ability to carry on its business in the Premises for **(a) one (1)** or more business days and it is in Landlord's reasonable control to restore the Essential Services or **(b) five (5)** or more consecutive business days if the failure is not within Landlord's reasonable control, then the Rent will be abated based on the extent that the lack of the Essential Services impairs City's ability to normally carry on its business in the Premises, or, alternatively at City's election, City may provide the Essential Services and offset the reasonable cost against the Rent next due under this Lease. The abatement or right to provide the Essential Services and offset against Rent will continue until the Essential Services have been restored so that the lack of any remaining Essential Services no longer materially impairs City's ability to carry on its business in the Premises. Landlord will use its best efforts to restore disrupted Essential Services as soon as possible. If the failure to provide any Essential Services occurs for any reason for fifteen (15) days or more in any sixty (60) day period and that failure interferes with City's ability to normally carry on its business in the Premises, then, without limiting any of its other rights or remedies under this Lease or at law or in equity, City may terminate this Lease on written notice to Landlord, unless Landlord supplies City with evidence reasonably satisfactory to City that the Essential Services will be reliably restored within sixty (60) days after the date City's use was first interrupted, and the Essential Services are actually restored and reliable within the sixty (60)-day period. City will not be entitled to any abatement of Rent or right to terminate if Landlord's inability to supply Essential Services to City results solely to the negligent acts or omissions of City and its Agents.

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

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

Subject to City's obligation under Section 8.2 (City's Repairs), Landlord will at all times during the Term maintain, at its cost, the Building, Common Areas, and the Building Systems in compliance with applicable present or future federal, state, local, and administrative laws, rules, regulations, orders, and requirements (collectively, "**Laws**"). Landlord represents and warrants to City, and covenants with City, as follows to the best of Landlord's knowledge but without the obligation to investigate: **(a)** the physical structure, fixtures, and permanent improvements of the Premises (including the Leasehold Improvements) and all portions of the Building along the path of travel to the Premises (including the Building entrances, Common Areas, restrooms, elevators, lobbies, telephone banks, and drinking fountains and parking areas) are now, and as of the Commencement Date will be, in compliance with the requirements of the Americans With

Disabilities Act of 1990, California Code of Regulations Title 24, and all other applicable Laws intended to provide equal accessibility for persons with disabilities (collectively, “**Disabilities Laws**”); (b) the Building is not an unreinforced masonry building, and is now, and as of the Commencement Date will be, in compliance with all applicable Laws relating to seismic safety (collectively, “**Seismic Safety Laws**”); (c) Landlord is not aware of any violations by the Building, the Common Areas, and Building Systems serving the Premises are now, and as of the Commencement Date will be, in full compliance with all applicable Laws relating to fire and life safety (including the San Francisco High-Rise Sprinkler Ordinance) (collectively, “**Life Safety Laws**”); (d) Landlord is not aware of any violations the Building, the Common Areas, and Building Systems serving the Premises are now, and as of the Commencement Date will be, in compliance with all other applicable Laws; and (e) there are not now, and as of the Commencement Date will not be, any material physical or mechanical defects in the Premises, Building, or the Building Systems that would materially adversely affect City’s intended use of the Premises. Without limiting Section 16.2 (Landlord’s Indemnity), Landlord will Indemnify City against any and all Claims (defined in Section 16.1 (City’s Indemnity) below) arising out of (i) any failure of the Building, Common Areas, Building Systems (or any portion of any of them) to comply with applicable Laws; or (ii) any misrepresentation by Landlord under this Section.

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

City will use the Premises during the Term in compliance with applicable Laws, except that City will not be required to make any structural alterations, additions, or other modifications in order to comply with applicable Laws unless the modifications are necessary solely because of any Alterations to the Premises made by City under Section 7 (Alterations) and the modifications are not otherwise Landlord’s responsibility under this Lease. City will 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 Building along the path of travel to the Premises, which are Landlord’s obligation as provided in Section 10.1 (Premises Condition). Without limiting Section 16.1 (City’s Indemnity), City will 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 will 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 in the Building, (b) result in a refusal by casualty insurance companies of good standing to insure the Building or property in the Building 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 casualty insurance premium for the Building unless City agrees to pay the increase, or (d) subject Landlord to any liability or responsibility for injury to any person or property solely because of the business operation conducted by City in the Premises; provided, however, Landlord will provide City with reasonable prior written notice of any applicable insurance requirements and no insurance requirements will materially and adversely interfere with City’s normal business in the Premises.

## **11. SUBORDINATION**

(a) Subject to subsection (b) below, this Lease is subject and subordinate at all times to the following (each an “**Encumbrance**”): (i) any reciprocal easement agreements, ground leases, or other underlying leases that may later be executed affecting Landlord’s interest in the Property (or any portion of it), and (ii) the lien of any mortgages or deeds of trust and renewals, modifications, consolidations, replacements, and extensions of any of the foregoing that may be

executed by Landlord at any time in any amount for which any part of the Building, any ground lease, or underlying lease, or Landlord's interest or estate in them is subject. But, if the ground lessor, mortgagee, trustee, or holder of any mortgage or deed of trust (each an "Encumbrancer") elects to have City's interest in this Lease be superior to its Encumbrance, then, on City's receipt of a notice from the Encumbrancer, this Lease will be deemed superior, whether this Lease was executed before or after the date of the Encumbrance or the date of its recording. The provisions of this subsection 11(a) **Error! Reference source not found.** are self-operative and no further instrument will be required. At Landlord's request, however, City will enter into a subordination, nondisturbance, and attornment agreement ("SNDA") with Encumbrancer in a form reasonably acceptable to City and Encumbrancer evidencing the subordination or superiority of this Lease. City's covenant under this subsection (a) to subordinate this Lease to any Encumbrance is conditioned on each senior instrument containing the commitments in subsection (b) below.

(b) If any mortgage or deed of trust to which this Lease is subordinate is foreclosed or a deed in lieu of foreclosure is given to the mortgagee or beneficiary, or if any ground lease or underlying lease to which this Lease is subordinate is terminated, then this Lease will not be barred, terminated, cut off, or foreclosed and the rights and possession of City under this Lease will not be disturbed unless an Event of Default has occurred and is continuing. City will attorn to and become the tenant of the successor-in-interest to Landlord, provided that City has received proper written notice of the succession and the name and address of the successor landlord. The provisions of this Section 11(b) are self-operative and no further instrument will be required. Landlord agrees, however, upon request by City and in a form reasonably acceptable to City to cause any Encumbrancer to execute an SNDA evidencing the foregoing non-disturbance provisions together with the priority or subordination of this Lease with respect to any such Encumbrance.

## 12. DAMAGE AND DESTRUCTION

(a) If the Premises, the Building, or any Building Systems are damaged by fire or other casualty, Landlord will repair the same without delay (if, at its sole option, City makes sufficient funds available to Landlord, Landlord will also repair the Leasehold Improvements) so long as the repairs can be made under applicable Laws within sixty (60) days after Landlord obtains all necessary permits but not later than two hundred ten (210) days after the date of the damage (the "Repair Period"). If Landlord is obligated to repair as provided above, then this Lease will remain in full force and effect, except that City will be entitled to an abatement of Rent until the Premises are restored to their condition before the casualty. The abatement in Rent will be based on the extent to which the damage, the making of the repairs, and reoccupying the repaired Premises interferes with City's use of the Premises. Landlord's repairs will not include, and the Rent will not be abated as a result of, any damage by fire or other cause to City's Personal Property or any damage caused by the negligence or willful misconduct of City or its Agents that is not covered by insurance.

(b) Within twenty (20) days after the date of the damage, Landlord will notify City whether, in Landlord's reasonable judgment made in good faith, the repairs can be made within the Repair Period. If the repairs cannot be made within the Repair Period, then either party may terminate this Lease by giving written notice to the other given within thirty (30) days after the date of Landlord's notice. The termination date will be the date specified in the termination notice, which date may be not less than thirty (30) or more than sixty (60) days after Landlord's notice. If either party elects to terminate this Lease, then the Rent will be reduced by a proportionate amount based on the extent to which the damage interferes with the normal conduct of City's business in the Premises, and City will pay the reduced Rent up to the date of termination. Landlord will refund to City any Rent previously paid for any period after the date of termination.

(c) Notwithstanding the foregoing, if the Premises are damaged or destroyed by flood or earthquake, and the damage or destruction is not fully covered by insurance proceeds payable under the insurance policies Landlord is required to carry under this Lease (excluding any deductible, for which Landlord is solely responsible), then Landlord may terminate this Lease by written notice to City within thirty (30) days after the date Landlord receives written notice that the damage is not covered by insurance. Landlord's termination notice must include adequate written evidence of the denial of insurance coverage. If Landlord does not elect to terminate this Lease, then subsections (a) and (b) will apply.

(d) If during the last six (6) months of the Term there is substantial damage that Landlord would be required to repair under this Section, then within thirty (30) days after the date of the damage Landlord or City may, each at its option, terminate this Lease as of the date the damage occurred by giving written notice to the other party of its election to do so; provided, however, Landlord may terminate this Lease only if it would take more than thirty (30) days to repair the damage.

(e) The parties intend that the provisions of this Section fully govern their rights and obligations in the event of damage or destruction. Accordingly, Landlord and City each 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 now or later in effect, to the extent those rights are inconsistent with the provisions of this Section.

### **13. EMINENT DOMAIN**

#### **13.1 Definitions**

**"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.

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

**"Award"** means all compensation, sums, or anything of value paid, awarded or received for a Taking, whether under any judgment, agreement, settlement, or otherwise.

#### **13.2 General**

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

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

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

#### **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 will terminate in its entirety if all of the following exist: (i) the partial Taking, in City's reasonable judgment, renders the remaining portion of the Premises untenantable or unsuitable for continued use by City for its intended purposes or otherwise materially adversely affects City's normal operations in the Premises or access to the Premises, (ii) the condition rendering the Premises untenantable or unsuitable or that materially adversely affects City's normal operations or limits access to the Premises either is not curable or is curable but Landlord is unwilling or unable to cure the condition, and (iii) City elects to terminate.

(b) If a partial Taking of a substantial portion of the Building occurs, but subsection (a) above does not apply, then within thirty (30) days after the Date of Taking either City or Landlord may terminate this Lease by written notice to the other, provided that, as a condition to City's right to terminate, the portion of the Building taken must, 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 or access to the Premises.

(c) If either party elects to terminate this Lease under this Section, then this Lease will terminate on the later of the thirtieth (30<sup>th</sup>) day after the written notice is given or the Date of Taking.

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

On termination of this Lease in its entirety under Section 13.3 (Total Taking; Automatic Termination) or under Section 13.4 (Partial Taking; Continuation of Lease), then: (a) City's obligation to pay Rent will continue up until the date of termination and then will cease, and (b) Landlord will be entitled to the entire Award, except that City will receive any portion of any Award made specifically for City's relocation expenses or the interruption of or damage to City's business or damage to City's Personal Property.

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

If there is a partial Taking of the Premises and this Lease is not terminated in its entirety under Section 13.4 (Partial Taking; Continuation of Lease) above, then this Lease will terminate as to the portion of the Premises taken, but will remain in effect as to the portion not taken, and the rights and obligations of the parties will be as follows: (a) Rent will be equitably reduced depending on the configuration of the Premises and the portion taken (for instance, if the area of the Premises taken has no special or significant use, then the reduction may be by an amount that is in the same ratio to the Rent as the area of the Premises taken bears to the area of the Premises before the Date of Taking), and (b) Landlord will be entitled to the entire Award in connection therewith, provided that City will receive any portion of 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 of the Premises occurs for sixty (60) consecutive days or fewer, this Lease will remain unaffected by the temporary Taking, and City will continue to pay Rent and to perform all of the terms, conditions, and covenants of this Lease. In the event of a temporary Taking, City will be entitled to receive that portion of any Award representing compensation for the use or occupancy of the Premises during the Term up to the total Rent owing by City and any out-of-pocket costs incurred by City due to the temporary Taking for the period of the Taking.

## **14. ASSIGNMENT AND SUBLETTING**

Except as provided in this Section, City may 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 created by this Lease 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 will not be unreasonably withheld, conditioned, or delayed. From time to time, on notice to Landlord, but without Landlord's consent, City may 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.

## **15. DEFAULT; REMEDIES**

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

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

(a) After Landlord is qualified as an approved vendor as provided in Section Error! Reference source not found. (Payments by City) above, City fails to make any timely payment of Rent and to cure the nonpayment within five (5) business days after receipt of written notice of nonpayment 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 will have twenty (20) days after written notice from Landlord to cure any nonpayment.

(b) City's abandons the Premises (within the meaning and under the requirements of California Civil Code Section 1951.3).

(c) City's failure to perform any other of its covenants or obligations under this Lease (not involving the payment of money) and failure to cure the non-performance within thirty (30) days of the date of receipt of Landlord's notice of the failure, provided that if more than thirty (30) days are reasonably required for the cure, no Event of Default will occur if City commences the cure within the thirty (30)-day period and diligently prosecutes the cure to completion.

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

On the occurrence and during the continuance of any Event of Default by City, Landlord will have all rights and remedies available under law or granted pursuant to this Lease, including the following:

(a) The rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including 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 under subsection (b) of 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), at its sole option, City may cure the default at Landlord's expense if the default continues after ten (10) days after the date City gives notice to Landlord of City's intention to perform the cure. However, if a default occurs because of a cause beyond Landlord's control (excluding any financial inability to perform), and Landlord cannot with due diligence cure the default within the ten (10)-day period, then the ten (10)-day period will be extended if, promptly on receipt of City's notice, Landlord advises City of Landlord's intention to take all steps required to cure the default, and Landlord promptly commences the cure and diligently prosecutes the cure to completion. Notwithstanding the foregoing if any such default by Landlord continues for sixty (60) days and if Landlord fails to promptly commence a cure and to diligently prosecute such cure to completion as provided above and such failure impairs City's ability to carry on its normal business in the Premises, then City shall have the right to terminate this Lease upon written notice to Landlord within thirty (30) days after the expiration of such sixty (60)-day period. Subject to the other provisions of this Lease relating to abatement of Rent, if Landlord fails to cure any default within the ten (10)-day cure period provided above (as it may be extended as provided above), then, whether or not City elects to cure Landlord's default, the Rent will be abated based on the extent to which the City notifies Landlord that default interferes with City's ability to carry on its normal business at the Premises. City's rights under this Section and under any other provisions of this Lease will not limit in any way any of its other rights and remedies under this Lease or at law or in equity. In the event that Landlord shall be liable to City for damages sustained by City as a result of Landlord's default, it is expressly understood and agreed that, if not satisfied by the companies that provide insurance coverage in favor of Landlord, any judgement resulting from any default or other claim arising under this Lease, shall be satisfied out of Landlord's right to receive the income from operation of the Building, but not limited to, all receipts, profits or other income produced by or resulting from the Building out of the Landlord's equity interest in the Building (collectively called "Landlord's Interest") and no other real or personal or mixed property of the Landlord wherever situated shall be subject to levy on such judgement obtained against Landlord. If Landlord's Interest is insufficient for the payment of such judgement, City shall not institute any further action, suit or claim or demand, in law or in equity against Landlord for or on account of such deficiency and City hereby waives, to the extent waivable under law, any rights to satisfy said money judgement against Landlord except Landlord's Interest. City shall have the right to cause the Building and Landlord's Interest therein be sold to satisfy any such money judgement.

## 16. INDEMNITIES

### 16.1 City's Indemnity

City will indemnify, defend, and hold harmless ("**Indemnify**") Landlord and its Agents from and against any and all claims, losses, damages, costs, and expenses, including reasonable attorneys' fees (collectively, "**Claims**"), incurred as a result of (a) City's use of the Premises, or (b) any negligent acts or omissions of City or its Agents in, on, or about the Premises or the Building; provided, however, City will 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 because of a Claim Indemnified by City under this Section, at its sole option, City may elect to defend the Claim by attorneys in City's Office of the City Attorney, by other attorneys selected by City, or both. City will have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that Landlord will have the right, but not the obligation, to participate in the defense of the Claim at its sole cost. City's obligations under this Section will survive the termination of this Lease.

## **16.2 Landlord's Indemnity**

Landlord will 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 Building; provided, however, Landlord will 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 because of a Claim Indemnified by Landlord under this Section, at its sole option, Landlord may elect to defend the Claim by attorneys selected by Landlord. Landlord will have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that City will have the right, but not the obligation, to participate in the defense of any Claim at its sole cost. Landlord's obligations under this Section will 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 City is 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**

(a) At all times during the Term, Landlord will keep the Building 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). Upon City's request, Landlord will provide to City a certificate of insurance issued by the insurance carrier, evidencing the required insurance. The certificate must 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 (or, if the insurer refuses to provide notice to the City, then Landlord will provide such thirty (30)-day prior notice to City). Landlord 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.

(b) In addition, at no cost to City, Landlord will procure and keep in effect at all times during the Term insurance as follows: (i) commercial general liability insurance with limits not less than 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 (ii) worker's compensation insurance in the amounts required by applicable Laws and employer's liability with limits not less than One Million Dollars (\$1,000,000) each accident. All insurance policies required by this Lease to be maintained by Landlord must be endorsed to provide for thirty (30) days' prior written notice of cancellation for any reason, intended non-renewal, or reduction in coverage, and ten (10) day notice of cancellation for non-payment to Landlord and City (or, if such endorsement is not available from the insurer, Landlord will provide such notice to City).

(c) The parties agree that the minimums set forth in this Section 17.2 will be re-evaluated every five (5) years, and increased to the extent consisted with similarly situated landlords and properties.

### **17.3 Waiver of Subrogation**

Notwithstanding anything to the contrary in this Lease, Landlord waives any right of recovery against City for any loss or damage relating to the Building or the Premises or any operations or contents in the Building, whether or not the loss is caused by City's fault or negligence, to the extent the loss or damage is covered by Landlord insurance that is required under this Lease or any excess coverage otherwise held by Landlord or its Agents. Landlord will obtain a waiver of subrogation endorsement from applicable insurance carriers issuing policies relating to the Building or the Premises, but Landlord's failure to do so will not affect the above waiver.

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

Landlord reserves for itself and any of its designated Agents the right to enter the Premises at all reasonable times and, except in cases of emergency (in which event Landlord will give any reasonable notice), after giving City at least twenty four (24) hours' advance written notice, to (a) inspect the Premises, (b) supply any service to be provided by Landlord under this Lease, (c) show the Premises to any prospective purchasers, mortgagees or, during the last six (6) months of the Term, tenants, (d) post notices of non-responsibility, and (e) alter, improve, or repair the Premises and any portion of the Building, and, for that purpose, Landlord may erect, use, and maintain necessary structures in and through the Premises where reasonably required by the work to be performed, provided that the entrance to the Premises may not be blocked. Landlord may not interfere with City's use of the Premises.

### **19. ESTOPPEL CERTIFICATES**

From time to time during the Term, by not less than thirty (30) days' prior written notice to the other party, either party may request the other party to execute, acknowledge, and deliver to the persons or entities designated by the other party a certificate stating: (a) the Commencement Date and Expiration Date of this Lease, (b) that this Lease is unmodified and in full force and effect (or, if there have been modifications, 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**

On the expiration or sooner termination of this Lease, City will surrender the Premises to Landlord in good order and condition, excepting reasonable use and wear and damage by fire or other casualty or condemnation. On or prior to the Expiration Date, City will 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 under the provisions of Section 7.1 (Alterations by City). City will repair or pay the cost of repairing any damage to the Premises or the Building resulting from that removal. City will not be required to demolish or remove from the Premises any of the Leasehold Improvements. City's obligations under this Section will survive the expiration or earlier termination of this Lease.

### **21. HAZARDOUS MATERIALS**

#### **21.1 Definitions**

As used in this Lease, the following terms are defined below:

**"Environmental Laws"** means any Law relating to industrial hygiene, environmental conditions, or Hazardous Material, whether now in effect or later adopted.

**“Hazardous Material”** means any material that, because of its quantity, concentration, or physical or chemical characteristics, is deemed by any federal, state, or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes any material or substance defined as a “hazardous substance,” or “pollutant” or “contaminant” under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”, also commonly known as the Superfund law), as amended (42 U.S.C. Section 9601 et seq.), or under California Health & Safety Code Section 25316; any “hazardous waste” listed under California Health & Safety Code Section 25140; any asbestos and asbestos containing materials whether or not those materials are part of the structure of the Building or are naturally occurring substances on or about the Building; and petroleum, including crude oil or any fraction thereof, natural gas, or natural gas liquids.

**“Release”** when used with respect to Hazardous Material includes any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside the 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 Building is not now, and has not been, used for the manufacture, use, storage, discharge, deposit, transportation, or disposal of any Hazardous Material, except for the use of Hazardous Material in limited quantities as are customarily used in offices, which limited use is and has been in compliance with Environmental Laws; **(c)** the Building does not consist of any landfill or contain any underground storage tanks; **(d)** the Building does not contain any asbestos-containing materials or have building materials that contain any other Hazardous Material, and the Premises or the common areas of the Building do not contain any lead-based paints; **(e)** there is and has been no Release of any Hazardous Material in the Building or in, on, under, or about the Building; and **(f)** the Building 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 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 Building, or the migration of Hazardous Material from or to other real property. Subject to City’s obligations under this Section below, Landlord will maintain the Building 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), Landlord will Indemnify City and its Agents against any and all Claims arising during or after the Term **(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 Building, unless City or its Agents caused the Release.

## **21.4 City’s Covenants**

Neither City nor its Agents will cause any Hazardous Material to be brought on, kept, used, stored, generated, or disposed of in, on or about the Premises or the Building, or transported to or from the Premises or the Building, 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 (City's Covenants), or if City or its Agents cause the Release of Hazardous Material from, in, on, or about the Premises or the Building, then City will Indemnify Landlord against any and all Claims arising during or after the Term as a result of the Release, except to the extent Landlord or its Agents is responsible for the Release. The foregoing Indemnity will 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 Building, existing before City's occupancy.

## **22. SPECIAL PROVISIONS**

### **22.1 Right of First Offer to Lease**

(a) During the Term, Landlord may not lease any part of any of the space contiguous with the Premises as shown on the attached Exhibit A-2 (the "**First Offer Space**") that is or becomes available, without first offering the First Offer Space for lease to City (the "**Right of First Offer**"), on the terms and conditions set forth below. Space will be deemed "available" if it is not under lease to any third-party tenant, including any tenant whose term has expired and has no option to renew in its original lease, but provided that Landlord shall not be obligated to first offer any premises to the City if any existing tenant desires to remain in its premises beyond the existing term of its lease and Landlord desires to continue leasing such premises to such tenant.

(b) At any time during the Term that any of the First Offer Space is or becomes available and provided there is then no Event of Default, Landlord will give City written notice (the "**First Offer Notice**") of the annual Rent, improvement work, and other terms and conditions on which Landlord is willing to lease the First Offer Space, described in the First Offer Notice.

(c) Within thirty (30) days after receipt of the First Offer Notice, if City agrees in writing to lease the First Offer Space, then the space will be included in the Premises and leased to City on the same terms and conditions described in the First Offer Notice and otherwise on the terms and conditions contained in this Lease. The Base Rent payable under this Lease will be increased by the amount of rent payable in connection with the First Offer Space, and City's Percentage Share will be adjusted to reflect the addition of that space and the parties will promptly execute an amendment to this Lease stating the terms and conditions of the addition of the First Offer Space to the Premises. Landlord acknowledges that City's exercise of its Right of First Offer with respect to any First Offer Space will be subject to approval by the Board of Supervisors and the Mayor, at their respective sole discretion, within sixty (60) days after City's exercise of its Right of First Offer.

(d) If City does not agree to lease the First Offer Space (or portion) within thirty (30) days after receipt of the First Offer Notice, then Landlord will have the right to lease the First Offer Space (or portion described in the First Offer Notice) to any third party. If Landlord leases the First Offer Space (or portion) to a third party and the space subsequently becomes available during the Term, the provisions of this Section will again apply to the First Offer Space (or portion).

### **22.2 First Right of Offer to Purchase**

(a) If Landlord decides to sell or transfer the Building to an unrelated third party, as described below, during the Term of this Lease, Landlord shall first offer the Property to the City at the purchase price the Landlord would offer the Building to third parties. Such proposed purchase price shall be set forth in written notice ("Sale Notification") from Landlord to City and shall be subject to adjustment as provided below. City shall have thirty (30) days from the date of Sales Notification to submit to Landlord in writing (i) an offer to purchase the Property at the price specified in the Sales Notification and otherwise upon the other business terms contained herein or (ii) counter offer to purchase the Building for a lower price and otherwise upon the other business terms contained herein (the "Counter Offer"). If Landlord elects to accept City's Counter Offer, Landlord shall provide City with written notice of such election within fifteen (15) day of receipt of City's Counter Offer, and if Landlord does not respond to City's Counter Offer, such Counter Offer shall be deemed rejected.

(b) If City accepts the price set forth in the Sales Notification, or if Landlord accepts City's Counter Offer, Landlord and City shall promptly enter into a purchase and sales agreement for the Property at the agreed upon price and on the terms and conditions specified in this Section 22.2. City's acceptance or Counter Offer shall be subject to the following conditions precedent: (i) approval by the City's Board of Supervisors and the Mayor, in their respective sole discretion given within seventy five (75) days of Landlord's approval and execution of a purchase and sales agreement (the "Approval Deadline"), incorporating the terms herein, (ii) the title company being willing to issue an ALTA Title Insurance acceptable to City, and (iii) City's successful issuance of debt to fund the purchase. If City's Board of Supervisors fail to approve the purchase transaction by the Approval Deadline, City may withdraw its acceptance or Counter Offer by written notice to Landlord and City fails to do so, the acceptance or Counter Offer shall be deemed withdrawn. Within ten (10) business days of the City's Board of Supervisors' and the Mayor's approval of the purchase agreement, City shall pay Landlord a deposit applicable to the purchase price in the amount of five percent (5%) of the purchase price. The deposit shall be paid to Landlord as detailed by the parties' mutual agreement in a purchase and sales agreement.

(i) Within three (3) business days of execution of a purchase and sales agreement, Landlord shall deliver to City copies of all reports, appraisals and other documents related to the Building in Landlord's possession, not previously delivered to City. Landlord shall cooperate with the City in City's due diligence investigation.

(ii) Close of escrow shall occur before the date that forty-five (45) days after the date of City's notice of the approval by City Board of Supervisors and Mayor of the purchase.

(iii) At closing, City shall pay for the cost of the premium of the extended coverage title insurance policy, one half of the escrow fees, and one half of the other typical closing expenses such as notary fees and overnight express or courier charges. Landlord shall pay transfer taxes (if any) and one half of escrow fees and one half of the typical closing expenses. City shall cooperate with Landlord to cause the transfer of the Property to be exempt from transfer tax, which such exemption shall be solely to Landlord's benefit. At closing Landlord shall deliver the following (with other customary items) through a mutually agreeable escrow company:

- A grant deed conveying ALTA insurable title subject only to taxes not yet due and payable, and other exceptions acceptable to City.
- A bill of sale for any personal property to be conveyed with the Building.
- A written disclosure in a form comparable to industry standards of all known facts including any and all property inspection reports) which would affect the

marketability of the Building or City's intended use of the Building as requested by the title company (an Owner's Affidavit).

(c) If City does not agree to purchase the Building for the price contained in the Sales Notification or make a Counter-Offer within the thirty (30) day period specified above, then this right of first refusal shall terminate and Landlord shall be free to sell the Building to any person and upon such terms whatsoever with no obligation to City. If, however City, while not accepting the purchase price set forth in Sales Notification, made a Counter Offer within the thirty (30) day period and such Counter Offer was not acceptable to Landlord, then Landlord may sell the property, free of any claim to City, only to a buyer who agrees to pay gross purchase price (i.e. an amount determined without regard to any brokerage commission liability or transfer taxes, but reduced by any Landlord credits of give-backs to the potential buyer or for such items as existing building conditions or improvements) exceeding ninety percent (90%) of the purchase price proposed in reduction during the due diligence period, provided such credits and reductions are made reasonably and in good faith during the due diligence period (and not in an effort to circumvent City's rights hereunder) such contact adjustments shall not serve to trigger a further right of first refusal for City, even if the final effective sales price is below the City's Counter Offer, so long as the buyer proceeds to consummate the purchase.

(d) In the event Landlord is unable to sell the Building for more than ninety percent (90%) of the proposed purchase price specified in City's Counter Offer but continues to desire to sell the Property, Landlord shall give City another Sales Notification with a reduced purchase price and the above procedure for City's first right of refusal shall be repeated.

(e) This first right of refusal shall terminate and be of no further effect if a sale of the Building to an arm's length third party is consummated in accordance with the foregoing provisions.

(f) For purposes in this Section 22.2, the following events shall not be deemed a sale or transfer of the Building to an unrelated third party triggering City's rights hereunder: (i) the conveyance of entity membership interests, stocks or partnership interests within the Landlord entity; or (ii) a transfer of Landlord or the holders of interest in the Landlord entity to another entity or trust with at least fifty percent (50%) the same holders of interest, or (iii) dissolution of the Landlord entity upon the death of some or all of the holders of interests therein, or (iv) the addition of family related holders of interest or beneficiaries of a trust or change of administrator of the trust or general partner of a limited partnership, (v) any other transfer of any kind where the recipient of the interest being transferred is a relative or descendent of Angelo Sangiacomo or a spouse of such relative or an entity or trust owned by such relative or spouse, or (vi) any foreclosure sale and any transfer pursuant to a deed in lieu of foreclosure. The term "unrelated third party" shall mean any other transferee.

## **23. CITY PROVISIONS**

### **23.1 MacBride Principles - Northern Ireland**

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

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

The terms of this Lease are governed by and subject to the budgetary and fiscal provisions of City's Charter Notwithstanding anything to the contrary contained in this Lease,

there will 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, under Section 3.105 of 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 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 will use its reasonable efforts to give Landlord reasonable advance notice of the termination.

### **23.3 Prevailing Wages and Working Conditions**

Any undefined, initially-capitalized term used in this Section has the meaning given to that term in San Francisco Administrative Code section 23.61. For any construction performed within the Premises, Landlord will require its Contractors and Subcontractors performing (i) labor in the construction of a "public work" as defined in California Labor Code Section 1720 *et seq.* (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling if paid for in whole or part out of public funds), or (ii) Covered Construction at the Premises to (A) pay workers performing the work not less than the Prevailing Rate of Wages, (B) provide the same hours, working conditions, and benefits as in each case are provided for similar work performed in San Francisco County, and (C) employ Apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, "**Prevailing Wage Requirements**"). Landlord will cooperate with City in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements.

For any construction performed within the Premises, Landlord will include, and require its Contractors and Subcontractors (regardless of tier) to include, the Prevailing Wage Requirements and the agreement to cooperate in City enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.61. For any construction performed within the Premises, each Construction Contract must name the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third-party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any Contractor or Subcontractor in accordance with San Francisco Administrative Code Section 23.61. Landlord's failure to comply with its obligations under this Section will constitute a material breach of this Lease. A Contractor's or Subcontractor's failure to comply with this Section will enable City to seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching party.

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

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

In the performance of this Lease, Landlord will not to discriminate against any employee of Landlord, any City employee working with Landlord, any 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 those protected classes, or in retaliation for opposition to discrimination against those classes.

#### **(b) Subcontracts**



Landlord will include in all subcontracts relating to the Premises a non-discrimination clause applicable to the subcontractor in substantially the form of subsection (a) above. In addition, Landlord will incorporate by reference in all subcontracts the applicable provisions of San Francisco Labor and Employment Code Articles 131 and 132 and require all subcontractors to comply with those provisions. Landlord's failure to comply with the obligations in this subsection will 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 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 the employees, where the domestic partnership has been registered with a governmental entity under state or local law authorizing that registration, subject to the conditions set forth in San Francisco Labor and Employment Code, Section 131.2.

**(d) CMD Form**

As a condition to this Lease, Landlord will execute the City's Declaration: Nondiscrimination in Contracts and Benefits form with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division (the "CMD"). Landlord represents that before execution of the Lease: (i) Landlord executed and submitted to the required form with supporting documentation, and (ii) the CMD approved the form.

**(e) Incorporation of Labor and Employment Code Provisions by Reference**

The provisions of San Francisco Labor and Employment Code Articles 131 and 132 relating to non-discrimination by parties contracting for the lease of property to City are incorporated into this Section by reference and made a part of this Lease as though fully set forth. Landlord will comply fully with and be bound by all of the provisions that apply to this Lease under Labor and Employment Code Articles 131 and 132, including the remedies provided in those Chapters. Without limiting the foregoing, Landlord understands that under Section 131.2(h) a penalty of Fifty Dollars (\$50) for each person for each calendar day during which that 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.

**23.5 Tropical Hardwood and Virgin Redwood Ban**

**(a)** Except as expressly permitted by San Francisco Environment Code Sections 802(b) and 803(b), neither Landlord nor any of its contractors may provide any items to City in the construction of the Leasehold Improvements or otherwise in the performance of this Lease that 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)** If Landlord fails to comply in good faith with any of the provisions of San Francisco Environment Code Chapter 8, Landlord will 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 will be payable to the City and County of San Francisco on demand and may be set off against any monies due to Landlord from any contract with City.

### **23.6 Bicycle Parking Facilities**

San Francisco Planning Code (the “**Planning Code**”) Article 1.5, Section 155.3 requires that bicycle parking must be provided at City-leased buildings at no cost to Landlord. During the Term, City will have the right to install and maintain, at no cost to Landlord, 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.

### **23.7 Green Building Requirements for City Buildings**

Landlord acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 705 relating to green building requirements for the design, construction, and operation of City buildings. Landlord will comply with all applicable provisions of those code sections.

### **23.8 Sunshine Ordinance**

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

### **23.9 Conflicts of Interest**

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

### **23.10 Notification of Prohibition on Contributions**

By executing this Lease, Landlord acknowledges its obligations under Section 1.126 of the City’s Campaign and Governmental Conduct Code, which prohibits any person who leases, or seeks to lease, to or from any department of the City any land or building from making any campaign contribution to (a) a City elected official if the lease must be approved by that official, (b) a candidate for that City elective office, or (c) a committee controlled by that elected official or a candidate for that office, at any time from the submission of a proposal for the lease until the later of either the termination of negotiations for the lease or twelve (12) months after the date the City approves the lease. Landlord acknowledges that the foregoing restriction applies only if the lease or a combination or series of leases or other contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of one hundred thousand dollars (\$100,000) or more. Landlord further acknowledges that (i) the prohibition on contributions applies to each prospective party to the lease; any person with an ownership interest of more than 10 percent (10%) in Landlord; any subcontractor listed in the lease; and any committee that is

sponsored or controlled by Landlord; and (ii) within thirty (30) days of the submission of a proposal for the Lease, the City department with whom Landlord is leasing is obligated to submit to the Ethics Commission the parties to the lease and any subcontractor. Additionally, Landlord certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the lease, and has provided the names of the persons required to be informed to the City department with whom it is leasing.

### **23.11 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 Environment Code Section 1304. The term “preservative-treated wood containing arsenic” means wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Landlord may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Landlord from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term “saltwater immersion” means a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

## **24. GENERALLY APPLICABLE PROVISIONS**

### **24.1 Notices**

Except as otherwise specifically provided in this Lease, any notice given under this Lease must 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 City’s address set forth in the Basic Lease Information; or (b) Landlord at Landlord’s address set forth in the Basic Lease Information; or (c) any other address designated by as either Landlord or City as its new address for notices by notice given to the other in accordance with this Section. A properly addressed notice transmitted by one of the foregoing methods will be deemed received upon confirmed delivery, attempted delivery, or rejected delivery. For convenience of the parties, copies of notices may also be given by email to the email address number set forth in the Basic Lease Information or any other email address as may be provided from time to time, but, neither party may give official or binding notice by email.

### **24.2 No Implied Waiver**

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

### **24.3 Amendments**

The terms and provisions of this Lease may only be changed, waived, discharged, or terminated by a written instrument signed by both parties. No waiver of any breach will affect or alter this Lease, and each and every term, covenant, and condition of this Lease will continue in full force and effect with respect to any other then-existing or subsequent breach. Whenever this Lease requires or permits City's consent or approval, the Director of Property, or their designee, will be authorized to provide the consent or approval, except as otherwise provided by applicable Law, including the Charter of the City and County of San Francisco. City's agreement to any amendments or modifications to this Lease (including the exhibits) may be made on the sole approval of the Director of Property, or their designee; provided, however, material amendments or modifications to this Lease (a) changing the legal description of the Premises, (b) increasing the Term, (c) increasing the Rent, (d) changing the general use of the Premises from the use authorized under Section 5.1 (Permitted Use), and (e) any other amendment or modification that materially increases City's liabilities or financial obligations under this Lease will also require the approval of City's Board of Supervisors.

### **24.4 Authority**

Landlord represents and warrants to City that it is the sole owner of the Property and the execution and delivery of this Lease by Landlord does not violate any provision of any agreement or any applicable Laws. If Landlord is a corporation, limited liability company, or a partnership, each person executing this Lease on behalf of Landlord, by their signature, covenants and warrants that Landlord is a duly authorized and existing entity, that Landlord is qualified to do business in California, that Landlord has the full right and authority to enter into this Lease, and that each person signing on behalf of Landlord is authorized to do so. On City's request, Landlord will provide City with evidence reasonably satisfactory to City confirming these representations and warranties.

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

If applicable, the word "**Landlord**" will include the plural as well as the singular. The term "**Agents**" when used with respect to either party includes the agents, employees, officers, and contractors of the party, and the term "**Invitees**" when used with respect to City will 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 City's exercise of any option, must be made by or through City's Director of Property unless otherwise provided in this Lease, subject to any applicable limitations in City's Charter. If there is more than one entity that comprises Landlord, the obligations and liabilities under this Lease imposed on Landlord are joint and several.

### **24.6 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 will in no way define or limit the scope or intent of any provision of this Lease. Except as otherwise specifically provided in this Lease, wherever Landlord or City is required or requested to give its consent or approval to any matter or action by the other, the consent or approval will not be unreasonably withheld or delayed and the reasons for disapproval of consent will be stated in reasonable detail in writing. Provisions in this Lease relating to number of days will be calendar days, unless otherwise specified. If the last day of any period to give notice, reply to a notice, or to take any other action occurs on a Saturday, Sunday, or a bank or City holiday, then the last day for taking the action or giving or replying to the notice will be the next succeeding business day. The words "**include**" or "**including**" or similar words will not be construed to limit any general term, statement, or other

matter in this Lease or any of its attached exhibits, whether or not language of non-limitation, such as “without limitation” or similar words, are used.

#### **24.7 Successors and Assigns**

Subject to the provisions of Section 14 (Assignment and Subletting), the terms, covenants, and conditions contained in this Lease will bind and inure to the benefit of Landlord and City and, except as otherwise provided in this Lease, their personal representatives and successors and assigns. There are no third-party beneficiaries to this Lease.

#### **24.8 Brokers**

Neither party has had any contact or dealings or communications regarding leasing the Premises 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 of the Premises, except for the broker, if any, identified in the Basic Lease Information. That broker's commission is Landlord's sole responsibility under a separate written agreement between Landlord and the broker, and City has no liability for that commission. If any other broker or finder perfects a claim for a commission or finder's fee based on any contact, dealings, or communication, the party through whom the broker or finder makes his claim will be responsible for the commission or fee and will Indemnify the other party from any and all Claims incurred by the indemnified party. The provisions of this Section will survive any termination of this Lease.

#### **24.9 Severability**

If any provision of this Lease or its application to any person, entity, or circumstance is found to be invalid or unenforceable, the remainder of this Lease, or the application of the provision to persons, entities, or circumstances other than those as to which it is invalid or unenforceable, will not be affected by that finding, and each other provision of this Lease will 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.

#### **24.10 Governing Law**

This Lease will be construed and enforced in accordance with the laws of the State of California and City's Charter. Any legal suit, action, or proceeding arising out of or relating to this Lease shall be instituted in the Superior Court for the City and County of San Francisco, and each party agrees to the exclusive jurisdiction of such court in any such suit, action, or proceeding (excluding bankruptcy matters). The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action, or proceeding in such court and irrevocably waive and agree not to plead or claim that any suit, action, or proceeding brought in San Francisco Superior Court relating to this Lease has been brought in an inconvenient forum.

#### **24.11 Entire Agreement; Incorporation of Exhibits**

The parties intend that this Lease (including all of the attached exhibits, which are made a part of this Lease by this reference) are the final expression of their agreement with respect to the lease of the Premises 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 will constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts and changes) may be introduced in any judicial, administrative, or other legal proceeding involving this Lease.

#### **24.12 Holding Over**

If City holds over in possession of the Premises after the expiration of the Term with Landlord's consent, that holding over will not be deemed to extend the Term or renew this Lease, and City's tenancy will continue as a month-to-month tenancy until the tenancy is terminated by either party by giving least thirty (30) days' prior written notice of termination. The month-to-month tenancy will be on all the terms and conditions of this Lease and at the monthly Base Rent in effect during the last month of the Term or as Landlord and City may mutually agree in writing. If City holds over without Landlord's consent, the rent payable by City during the period of holding over will be one hundred ten percent (110%) of the monthly Base Rent in effect during the last month of the Term of this Lease, and the tenancy will otherwise be on the terms and conditions contained in this Lease. If, as provided in Section 20 (Surrender of Premises) above, City fails to remove its furniture, furnishings, equipment, City's Personal Property and designated Alterations by the Expiration Date, then City's continued possession will be deemed to be a holding over and Base Rent will be payable for the entire hold over period (including the 10 days) as set forth in this Section 24.12 (Holding Over).

#### **24.13 Cumulative Remedies**

All rights and remedies of either party set forth in this Lease are cumulative, except as otherwise specifically provided in this Lease.

#### **24.14 Time of Essence**

Time is of the essence for all provisions of this Lease.

#### **24.15 Survival of Indemnities**

Termination of this Lease will not affect the right of either party to enforce any indemnities and representations and warranties given or made to the other party, and it will not affect any provision of this Lease that expressly states it will survive termination. With respect to each of the indemnities contained in this Lease, the indemnitor has an immediate and independent obligation to defend the indemnitees from any claim that actually or potentially falls within the indemnity provision even if the claim is or may be groundless, fraudulent, or false, and the obligation to defend arises at the time the claim is tendered to the indemnitor by the indemnitee and continues at all times until resolved.

#### **24.16 Signs**

City may erect or post exterior signs on or about the Premises with Landlord's prior approval. Landlord reserves the right to review and approve the placement, design, and plan for before erecting or posting any sign, which review and approval will not be unreasonably withheld or delayed. Interior signs not visible from the exterior of the Premises are permitted as provided under Article 7 (Alterations).

#### **24.17 Quiet Enjoyment and Title**

Landlord covenants and represents that it has full right, power, and authority to grant the leasehold estate as provided in this Lease, and covenants that City, on paying the Rent and performing the covenants contained in this Lease, will peaceably and quietly have, hold, and enjoy the Premises and all related rights during the Term as against all persons or entities 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 will 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.

#### **24.18 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. City's leasehold estate under this Lease includes all rights to receive and enjoy all services, facilities, and amenities of the Premises and the Building as provided in this Lease. If any of the services, facilities, or amenities are terminated, or materially limited or restricted because of any such case or proceeding, or for any other reason, City may (a) contract directly with any third-party provider of those services, facilities, or amenities, and (b) offset against the Rent all reasonable costs and expenses incurred by City in obtaining those services, facilities, or amenities.

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

Landlord may transfer its interest in the Property, the Building, or this Lease to any other financially responsible person or entity. If Landlord transfers its interest in the Property, the Building, or this Lease, then Landlord will be relieved of Landlord's obligations under this Lease accruing from and after the date of the transfer when (a) Landlord has provided notice to City of the name and address of Landlord's successor, (b) Landlord has transferred the Security Deposit to the transferee, and (c) Landlord has delivered to City an express written assumption by the transferee of all of Landlord's obligations under this Lease.

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

Notwithstanding anything to the contrary in this Lease, no elected or appointed board, commission, member, officer, employee, or other Agent of City will be personally liable to Landlord, its successors, or its assigns for any City default or breach or for any amount that may become due to Landlord or its successors or assigns, or for any obligation of City under this Lease.

#### **24.21 Counterparts**

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

#### **24.22 Effective Date**

This Lease will become effective on the date (the "Effective Date") that (a) a resolution is enacted by the City's Board of Supervisors and Mayor approving and authorizing this Lease and the transaction contemplated hereunder and (b) this Lease is duly executed by Landlord and City. Landlord may rely on upon City's execution of this Lease that City's Mayor and Board of Supervisors have authorized this Lease in accordance with the City's Charter and all applicable laws. This Lease shall not be effective until approved by Landlord's lender. Prior to City referring this Lease to committee, Landlord shall deliver written notice to City of such approval or should Landlord's lender refuse to approve this Lease, then, by written notice to City, Landlord may terminate this Lease, without any further liability to Landlord or City.

#### **24.23 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. If Landlord or any of its officers or members have been suspended, disbarred, disciplined, or prohibited from contracting with any governmental agency, it will immediately notify City of that fact and the reasons for the

suspension, disbarment, discipline, or prohibition together with any relevant facts or information requested by City. If there is any suspension, disbarment, discipline, or prohibition that may result in the termination or suspension of this Lease, City may terminate this Lease on written notice to Landlord. Landlord acknowledges that this certification is a material term of this Lease.

#### **24.24 Memorandum of Lease**

On the Effective Date, Landlord and City will execute the memorandum of lease in the form attached as Exhibit H, (the “**Memorandum of Lease**”), and City will cause the Memorandum of Lease to be recorded in the Official Records of the City and County of San Francisco within two (2) business days after execution. On termination of the Purchase Option or any Purchase Option agreement, City will execute in recordable form documents as reasonably requested by Landlord to establish that the Property is no longer subject to the option.

#### **24.25 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 Landlord’s legal counsel. No party will be considered the drafter of this Lease, and no presumption or rule that an ambiguity will be construed against the party drafting the clause will apply to the interpretation or enforcement of this Lease.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, LANDLORD ACKNOWLEDGES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS LEASE UNLESS CITY’S BOARD OF SUPERVISORS HAS DULY ADOPTED A RESOLUTION APPROVING THIS LEASE AND AUTHORIZING CONSUMMATION OF THE TRANSACTION CONTEMPLATED BY THIS LEASE. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY UNDER THIS LEASE ARE CONTINGENT ON ADOPTION OF THAT RESOLUTION AND THIS LEASE WILL BE NULL AND VOID UNLESS CITY’S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS LEASE, AT 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 WILL NOT BE DEEMED TO IMPLY THAT THE RESOLUTION WILL BE ADOPTED AND NO SUCH APPROVAL WILL CREATE ANY BINDING OBLIGATIONS ON CITY.



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

*Landlord also acknowledges that they have read and understood the City's statement urging companies doing business in Northern Ireland to move toward resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.*

LANDLORD:

TRINITY CENTER LLC, a Delaware limited liability company

By: Mia T. Langione

Its: PRESIDENT.

CITY:

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

By: ANDRICO Q. PENICK  
Director of Property

APPROVED AS TO FORM:

DAVID CHIU, City Attorney

By: Nancy Taylor  
Deputy City Attorney

**EXHIBIT A**

**Legal Description of Property/Floor Plan(s)**

CONSISTING OF \_\_\_\_ PAGE(S)

**EXHIBIT B-1**

**NOTICE OF COMMENCEMENT DATE**

[Date]

Mr. Andrico Q. Penick  
Director of Property  
Real Estate Division  
City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, California 94102

RE: Acknowledgement of Commencement Date, Lease Between TRINITY CENTER LLC, a Delaware limited liability company (Landlord), and the CITY AND COUNTY OF SAN FRANCISCO (Tenant), for premises known as 1<sup>st</sup> Floor (OCEIA Space) located at 1145 Market Street

Dear Mr. Penick:

This letter confirms that for all purposes of the Lease, the Commencement Date (as defined in Section 3.2 of the Lease) is \_\_\_\_\_, 20\_\_.

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: \_\_\_\_\_  
Andrico Q. Penick  
Director of Property

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

**EXHIBIT B-2**

**NOTICE OF COMMENCEMENT DATE**

[Date]

Mr. Andrico Q. Penick  
Director of Property  
Real Estate Division  
City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, California 94102

RE: Acknowledgement of Commencement Date, Lease Between TRINITY CENTER LLC, a Delaware limited liability company (Landlord), and the CITY AND COUNTY OF SAN FRANCISCO (Tenant), for premises known as 8<sup>th</sup> Floor (D.M.A.C.C. Space) located at 1145 Market Street, San Francisco, CA

Dear Mr. Penick:

This letter confirms that for all purposes of the Lease, the Commencement Date (as defined in Section 3.2 of the Lease) is \_\_\_\_\_, 20\_\_.

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: \_\_\_\_\_  
Andrico Q. Penick  
Director of Property

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

**EXHIBIT B-3**

**NOTICE OF COMMENCEMENT DATE**

[Date]

Mr. Andrico Q. Penick  
Director of Property  
Real Estate Division  
City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, California 94102

RE: Acknowledgement of Commencement Date, Lease Between TRINITY CENTER LLC, a Delaware limited liability company (Landlord), and the CITY AND COUNTY OF SAN FRANCISCO (Tenant), for premises known as Floors 9,10 and 11 (DPH Space) located at 1145 Market Street

Dear Mr. Penick:

This letter confirms that for all purposes of the Lease, the Commencement Date (as defined in Section 3.2 of the Lease) is \_\_\_\_\_, 20\_\_.

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: \_\_\_\_\_  
Andrico Q. Penick  
Director of Property

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

## **EXHIBIT C**

### **BUILDING RULES AND REGULATIONS**

1. Except as provided, required or permitted by Landlord in accordance with the Building standards, no sign, placard, picture, advertisement, name or notice shall be inscribed, displayed, painted or affixed by Tenant on or to any part of the Building or exterior of the Premises leased to tenants or to the doors or door thereof without the written consent of Landlord (which may be withheld in Landlord's sole discretion) first obtained as to all matters pertaining thereto, including without limitation dimensions, material, content, location and design, and Landlord shall have the right to remove any such sign, placard, picture, advertisement, name or notice without notice to and at the expense of Tenant. In no event whatsoever shall Tenant install any signage on any exterior or interior door of the Premises; if Tenant shall nonetheless do so, Tenant shall replace or, at Landlord's option, pay Landlord for the replacement of each door on which any signage has been installed.

2. Except as provided, required or permitted by Landlord in accordance with Building standards, no draperies, curtains, blinds, shades, screens or other devices shall be hung at or used in connection with any exterior window or exterior door or doors of the Premises.

3. The bulletin board or directory of the Building, if any, shall be used primarily for display of the name and location of tenants and Landlord reserves the right to exclude any other names therefrom, to limit the number of names associated with tenants to be placed thereon and to charge for names associated with tenants to be placed thereon at rates applicable to all tenants. Without additional cost, Landlord shall provide one listing on the Building directory in Building standard format pursuant to this Lease, for each Department at City's request.

4. The sidewalks, doorways, vestibules, halls, passages, exits, entrances, loading areas, elevators and stairways of the Building shall not be obstructed by Tenant or used by it for any purpose other than for ingress to and egress from the Premises. Landlord in all cases reserves the right to control the halls, passages, exits, entrances, loading areas, elevators, stairways and balconies of the Building and prevent access thereto by all persons whose presence, in the judgment of Landlord, is or may be prejudicial to the safety, character, reputation or interests of the Building and its tenants. No person shall go upon the roof of the Building unless expressly so authorized by Landlord.

5. Tenant shall not alter any lock nor install any new or additional locks or any bolts on any interior or exterior door of the Premises, except for interior locks which (i) do not interfere with the security system of the Building, if any, (ii) have been approved by Landlord and a key thereof has been provided to Landlord, and (iii) comply with all fire and other governmental requirements. Tenant shall be responsible for the cost of restoring any locks, and the repair of any damage to doors and the like associated with restoring the doors and locks, upon expiration or earlier termination of this Lease.

6. The doors, windows, light fixtures and any lights or skylights that reflect or admit light into the halls or other places of the Building shall not be covered or obstructed. The toilet rooms, toilets, urinals, wash bowls and other plumbing facilities shall not be used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever shall be thrown or placed therein. The expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by Tenant if it or its employees or invitees caused such expense.

7. Tenant shall not mark, drive nails, screw or drill into the walls, woodwork or plaster of or in any way deface the Building or the Premises, except that within the Premises

Tenant may affix to non-supporting partitions pictures, paintings, whiteboards, bulletin boards, shelving and other similar items.

8. General deliveries of furniture, freight, equipment or merchandise of every kind shall be moved into or out of the Building only at such times during regular business hours and in such manner as Landlord shall reasonably designate, as specified in the Lease. Delivery of significant amounts of furniture, freight, equipment or merchandise shall be moved into or out of the Building only at such times and in such manner as Landlord shall reasonably designate. Tenant shall be responsible for all damage to common areas caused by its vendors, movers, and deliveries. Landlord may prescribe and limit the hours of access to, and appropriate uses of the freight elevator, and the weight, size and position of all equipment to be carried in the elevator or used by Tenant in the Premises. Tenant shall not cause or permit the use of any elevator for the transporting of furniture, freight, equipment or merchandise other than the designated freight elevator(s) and only then if proper protection is used to prevent damage to interior surfaces of the elevator. Tenant shall not place a load on any floor exceeding the floor load per square foot which such floor was designed to carry. Tenant shall not install, operate or maintain any heavy item or equipment in the Premises, except in such manner as to achieve a proper distribution of weight. All damage to the Building or the Premises caused by moving or maintaining any property of Tenant shall be repaired at the expense of Tenant.

9. Tenant shall not employ any person, other than the janitor provided by Landlord, for the purpose of cleaning the Premises unless otherwise agreed to by Landlord. Except with the written consent of Landlord, no person shall be permitted to enter the Building for the purpose of cleaning the same. Tenant shall not cause any unnecessary labor by carelessness or indifference in the preservation of good order and cleanliness. Landlord shall not be responsible to Tenant for loss of property on the Premises, however occurring, or for any damage to the property of Tenant caused by the employees or independent contractors of Landlord or by any other person. Except as otherwise set forth in this Lease, including Exhibit E attached hereto, janitor service shall not include shampooing of carpets or rugs, moving of furniture or other special services; janitor service will not be furnished when rooms are occupied during the regular hours when the janitor service is provided; and window cleaning shall be done only at the regular and customary times determined by Landlord for such services, but no less than once per year.

10. Tenant shall not sweep or throw or permit to be swept or thrown any dirt or other substance into any of the corridors, halls or elevators or out of the doors or stairways of the Building; use or keep or permit to be used or kept any foul or noxious gas or substance; permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to Landlord, other tenants or guests of the Building by reason of noise, odors or vibrations; use any advertising medium which may be heard or experienced outside the Premises; interfere in any way with other tenants or persons having business in the Building; or bring or keep or permit to be brought or kept in the Building any animal life form, other than human, except seeing-eye dogs or other assistance animals when in the company of their masters.

11. Subject to Landlord's janitorial obligations under this Lease, Tenant shall keep the Premises (including interior portions of all windows, doors and all other glass) in a neat and clean condition. Tenant shall not permit the accumulation (unless in concealed metal containers) or burning of any rubbish or garbage in, on or about any part of the Premises or the Building. Further, Tenant shall permit supplies and equipment required to operate the Premises and any rubbish or other waste to be disposed of from the Premises to be transported only through the rear door to the Premises and to the area designated by Landlord for trash disposal service. The designated area is subject to change by Landlord.

12. No coin- or token-operated vending machine or similar device for the sale of any merchandise or services (including, without limitation, pay lockers, pay toilets, scales, amusement devices and machines for the sale of cigarettes or other commodities) may be

operated in the Premises, except that vending machines for the sale of beverages, foods, and candy may be operated in any break room or kitchenette areas located within the Premises for use by Tenant and its employees and invitees.

13. With the exception of coffee pots, refrigerators, and microwave ovens, no cooking or preparation of food shall be done or permitted by Tenant in the Premises, nor shall the Premises be used for the storage of merchandise, washing clothes, lodging, or any improper, objectionable or immoral purposes. Tenant shall not conduct any restaurant, luncheonette or cafeteria for the sale or service of food or beverages to its employees or to others, except as provided above in Section 12.

14. Tenant shall not use or keep in the Building any kerosene, gasoline or inflammable or combustible fluid or material.

15. No boring or cutting for telephone, data or electric wires shall be allowed without the consent of Landlord and any such wires permitted shall be introduced at the place and in the manner prescribed by Landlord. The location of telephones, utilities outlets, speakers, fire extinguishers and all other equipment affixed to the Premises shall be subject to the approval of Landlord. Tenant shall pay all expenses incurred in connection with the installation, and, upon expiration or earlier termination hereof, the removal, of its equipment, including any telephone, data and electricity distribution equipment, and repair and replacement, as necessary, of any parts of the Premises and the Building affected thereby. In no event whatsoever shall Landlord be responsible to do any cabling or installation or other work for Tenant's telephone and data systems.

16. Card-keys for access to the Premises has previously been furnished by Landlord, and any additional card-keys required by Tenant must be obtained from Landlord at a cost \$10 per card-key. Tenant shall pay the same charge for any card keys not returned at expiration of this Lease. Tenant shall immediately report to Landlord any lost keys or card-keys, and shall bear the cost of any lost keys and card-keys and any lock changes or repairs required by Tenant. No keys or card-keys for access to the Building shall be copied without Landlord's written consent. Upon termination of occupancy of the Building, Tenant shall deliver to Landlord all keys and card-keys furnished by Landlord, and any reproductions thereof made by or at the direction of Tenant.

17. Tenant shall not affix any floor covering in any manner except as approved by Landlord. The expense of repairing any damage caused by removal of any such floor covering shall be borne by Tenant if it or its contractors, employees or invitees caused the damage.

18. No mail, furniture, packages, supplies, equipment, merchandise or deliveries of any kind will be received in the Building or carried up or down in the elevators except between such hours and in such elevators as shall be reasonably designated by Landlord.

19. Landlord reserves the right to close and keep locked all entrances and existing doors of the Building at all hours and to provide for access during regular business hours by Tenant and its employees by means of a card-key or other access system, and to provide for access by Tenant's invitees and guests by an intercom or other access system. Use of the Building daily between 6:00 p.m. and 8:00 a.m. or at any time during Saturdays, Sundays and legal holidays shall be subject to the rules and regulations Landlord may reasonably prescribe, including but not limited to use of key-cards, at no additional cost to Tenant. Tenant, Tenant's employees, agents or associates, or other persons entering or leaving the Building at any time, when it is so locked, may be required to sign the Building register, and any security guard or other person designated by Landlord (if posted by Landlord in its discretion) shall have the right to refuse admittance to any person into the Building without satisfactory identification showing such person's right to access to the Building at such time. Landlord assumes no responsibility



and shall not be liable for any loss or damage resulting from the granting or refusing of admission to any authorized or unauthorized person to the Building. Tenant shall be responsible for the cost of any false discharge of Building security alarm system caused by the gross negligence or willful misconduct of Tenant, its agents, employees or invitees.

20. Tenant shall exercise reasonable care and caution to see that the exterior doors of the Premises are closed and securely locked on Saturdays, Sundays, legal holidays and after 6:00 P.M. daily. Tenant shall exercise reasonable care and caution that all water faucets or water apparatus are entirely shut off each day before the Premises are left unoccupied and that all electricity or gas shall likewise be carefully shut off so as to prevent waste or damage to Landlord or to other tenants of the Building.

21. Landlord may exclude or expel from the Building any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of the rules and regulations of the Building.

22. The requirements of Tenant will be attended to promptly only upon application to Landlord. Employees of Landlord shall not perform any work outside of their regular duties unless under special instructions from Landlord.

23. Landlord, without notice and without liability to Tenant, at any time may change the name or the street address of the Building; provided, however, Landlord shall use its good faith effort to give reasonable prior notice to Tenant of any such change.

24. The word "Building" as used in these rules and regulations means the building in which the Premises are located.

## **EXHIBIT D**

### **STANDARDS FOR UTILITIES AND SERVICES**

Landlord will provide the following utilities and services, at cost:

(a) **Elevators.** Unattended automatic passenger elevator facilities serving the floor(s) on which the Premises are located, on a 24-hours a day, 7-days a week basis. Freight elevator service is available Upon City's reasonable request.

(b) **Ventilation; Heating, and Air-Conditioning.** Ventilation to the Premises and air-conditioning and heating to the Premises in season, 5-days per week, Monday through Friday, except holidays generally recognized in the City of San Francisco, from 7:00 a.m. to 6:00 p.m., and at the temperatures and in the amounts as City deems reasonably necessary for the comfortable occupancy of the Premises, subject to applicable governmental laws, ordinances, rules, and regulations. In addition to the above hours, Landlord will provide ventilation to the Premises and air-conditioning and heating to the Premises in season, after hours or on weekends or during holidays, on twenty-four (24) hours' notice from City, provided that City will reimburse Landlord for Landlord's actual cost for providing the additional ventilation to the Premises and air-conditioning and heating to the Premises in season. City may not alter, adjust, or tamper with the installations or facilities supplying climate control to the Building or the Premises.

(c) **Electricity.** Electric current to the Premises 24-hours a day, 7-days per week, as required by the Building standard office lighting and for personal computers and other normal fractional horsepower office machines. City will not connect any apparatus or device with wires, conduits, or pipes, or other means by which the services are supplied, for the purpose of using additional or extraordinary amounts of the services without the prior written consent of Landlord. At all times, City's use of electric current at the Premises may not exceed the capacity of feeders to the Building or the risers or wiring installation, except as provided in working drawings to City.

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

## **EXHIBIT E**

### **STANDARDS FOR JANITORIAL SERVICE**

1145 Market Street

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

- A.** Landlord's janitorial contractor (its "**Contractor**") will 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 no cost to City.
- 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  
Real Estate Division  
25 Van Ness, Suite 400  
San Francisco, CA 94102  
Attn.: Director of Property

- D.** All services must be performed after 5:00 p.m.
- E.** All employees of Landlord's Contractor must be fully trained and experienced in the custodial service trade.
- F.** Landlord will assign space in the Building to Contractor to store supplies and equipment. Supplies and equipment must be neatly stored only in the areas provided by Landlord. No supplies or equipment may be stored in the Premises without City's prior approval.
- G.** City's Recycling Program includes recycling materials from offices in the Building. Bins for recyclable materials can be obtained from City.
- H.** On or before the earliest Commencement Date, Landlord's Contractor will provide a schedule for all periodic services specified in this Exhibit.
- I.** Janitorial Service Specifications for Premises and Common Areas.
  - 1.** Nightly Services
    - a.** Turn off 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. Dust and remove debris from all metal door thresholds.
- m. Wipe clean smudged brightwork.
- n. Spot clean resilient and composition floors as required.
- o. Service all walk-off mats as required.
- p. Upon City's request, check for burned out lights and replace from building stock (to be supplied by Landlord).

## 2. Weekly Services

- a. Dust all low reach areas including 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 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. At City's cost, shampoo carpets in offices (schedule to be approved in advance by City), 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 Landlord'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.
- l. As needed cleaning as per City request

## 2. Weekly Services

- a. Dust all low reach and high reach areas, including 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 must 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 City's Premises and other tenants' 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 Premises and other 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. Upon City's request and cost, provide spot cleaning to Premises as necessary and shampoo carpets in Premises 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 use of proper warning signs and clean up of water in compliance with all City, State, and Federal laws (including 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 will be scheduled immediately before the first Lease Commencement Date. Interior glass will be cleaned not less than once per year. Exterior glass will be cleaned once per year.
6. Landlord will notify City for specific scheduling of window washing one week before scheduled cleaning.
7. Landlord 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 in this Exhibit 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, must be uniformed. All personnel must have a visible company name, logo, badge, etc., on their uniform.

## **III. EMPLOYEE SAFETY**

Landlord's Contractor will 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 will 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 will supply all equipment including ladders, vacuum cleaners, extractors, floor machines, mops, and buckets.

## **V. APPROVAL OF PRODUCTS**

City will have the right to prohibit the use of any product proposed or being used by Landlord's Contractor should 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 on request a complete list of products to be used in the course of this Lease, together with Material Safety Data Sheets for each cleaning chemical.

## **VI. DISPOSITION OF REFUSE**

All trash and refuse collected by the custodians will 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 will note maintenance problems (such as broken glass, light bulbs missing or burned out, inoperative fixtures, etc.) and report them to Landlord. Any problem that prevents performance must be noted in the log (Section VIII)



before the end of the shift. Contractor will not claim, and City will not entertain, any claim that those problems prevented Contractor's performance of required maintenance if the claim is not entered in the log.

#### **VIII. JANITORIAL LOG**

Landlord's Contractor will provide, and City will keep, a janitorial log noting any deficiencies in performance, special problems, or instructions. Landlord's Contractor will check the log daily, as arranged with City, and correct any deficiencies in service within twenty-four (24) hours of the log entry. Contractor will initial and date each entry when deficiency has been corrected.

#### **IX. EMERGENCY CONTACT**

Landlord's Contractor will 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 the deficiency within two hours after receipt of the call.

#### **X. PERFORMANCE**

Landlord and its Contractor will guarantee that workmanship required for the performance of this Lease will 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 will be made by City or its Director of Property. 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 will faithfully comply with same by initialing, dating, and indicating time that service was completed. It is agreed that no 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

## **EXHIBIT F**

### **STANDARDS FOR SECURITY SERVICE**

Landlord will furnish security services as follows:

Landlord, without any responsibility for the efficacy thereof, shall provide at its cost security measures for the Building in accordance with and at a level comparable to security services normally provided in other first-class office buildings similar to the Building in the San Francisco Civic Center District. Such security measures shall include, at a minimum, a uniformed security guard on site 24 hours per day, 7 days per week, and 24 hours per day, 7 days per week monitoring and recording by video camera of all entrances to the Building, the loading dock/Bike Room, and the elevator lobby (with a recording of such monitoring kept available to the City for a minimum of two (2) weeks following the date of recording).

**EXHIBIT G**  
**WORK LETTER**

*1145 Market*

**A portion of the 9<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> floors**

This Work Letter is part of the Lease dated as of \_\_\_\_\_, 2024 (the “**Lease**”), executed concurrently with this Work Letter, by and between Trinity Center, LLC, a Delaware Limited Liability Company, as Landlord, and the City and County of San Francisco, as Tenant, covering the Premises, as defined in the Lease. All terms that are capitalized but not defined in this Work Letter have the same meanings given to them in the Lease.

Landlord, at its sole cost and expense (except as otherwise specifically set forth below), and through its general contractor approved by City (the “**Contractor**”), will construct, furnish, and install in the Premises the improvements shown on the Construction Documents finally approved by City under Paragraph 1 below (the “**Leasehold Improvements**” and the construction, furnishing and installation of the Leasehold Improvements, the “**Leasehold Improvement Work**”), in accordance with the provisions of this letter.

**1. Plans and Specifications**

a. Schematic Design Documents. City and Landlord approve the schematic design plans for the Leasehold Improvement Work dated \_\_\_\_\_, prepared by ASD/SKY Architects (the “**Schematic Design Documents**”) in accordance with the program requirements of City; provided, however, that approval will not limit Landlord’s obligations under this Work Letter or the Lease.

b. Design Development Documents. Based on the approved Schematic Design Documents and any adjustments approved by City, on or before two (2) weeks following the Effective Date Landlord will cause its architect or space planner approved by City (the “**Architect**”) to prepare and submit to City for its approval greater detailed Schematic Design Documents (collectively, the “**Design Development Documents**”). The Design Development Documents are subject to approval by City as provided below, which approval City shall provide or reject within five (5) days of submission. In the event City rejects Design Development Documents, Landlord shall cause their Architect to meet with City and address reasons for rejection and changes necessary. Landlord shall provide revised drawings for City’s approval or rejection under this provision.

c. Construction Documents. Based on the approved Design Development Documents and any further adjustments approved by City, on or before four (4) weeks following City’s approval of the Design Development Documents, Landlord will cause its Architect to prepare and submit to City for its approval final plans, specifications, and working drawings for the Leasehold Improvements (collectively, the “**Construction Documents**”). The Construction Documents are subject to approval by City as provided below.

d. Design in Accordance with City’s Requirements. Landlord’s Architect will consult and hold periodic meetings with City and its architectural consultants and space planners in the preparation of the Design Development Documents and Construction Documents.

e. City’s Approval of Plans. The Design Development Documents and Construction Documents (and any Landlord Change Orders, as described below) are subject to approval by City, which approval will not be unreasonably withheld or delayed, in accordance

with the following procedure. After Landlord submits the Design Development Documents, Construction Documents, or proposed Change Order to City, City will have five (5) days to provide notify Landlord of its disapproval any element of any of them and of the revisions that City reasonably requires in order to obtain approval. As soon as reasonably possible, but not later than five (5) days after receipt of City's disapproval notice, Landlord will submit to City documents incorporating the required revisions. The revisions will be subject to City's approval, which will not be unreasonably withheld or delayed. If City fails to notify Landlord of any objection to the revisions within five (5) days after receipt, then the revisions will be deemed approved by City.

f. **Payment for Plans.** Landlord will pay the costs of preparing the Schematic Design Documents, Design Development Documents, and the Construction Documents and those costs will be reimbursed by City, subject to the Allowance, if applicable, and, subject to City's prior approval of the costs as provided below. Landlord will provide City evidence of the costs by invoices and other substantiation as City may reasonably require.

g. **Changes to Approved Construction Documents.**

i. **City Change Orders.** If following its approval of the Construction Documents, City requests any change, addition, or alteration thereto relating to the design or specifications of the Leasehold Improvement Work ("**City Change Order**"), Landlord will cause the Architect or Engineer, as applicable, to prepare plans and specifications for the change, addition, or alteration. Within 3 days of City's request, Landlord will notify City of the cost that would be incurred resulting from the proposed City Change Order and any delay in the anticipated date of Substantial Completion that would result from the City Change Order. If City approves the cost of the City Change Order within three (3) days of receipt from Landlord, then Landlord's Contractor will proceed with the City Change Order as soon as reasonably practicable. If City does not approve the cost within the three (3)-day period, then construction of the Premises will proceed in accordance with the original completed and approved Construction Documents. City will be responsible for the reasonable cost actually incurred by Landlord in the preparation of the plans and specifications for any City Change Order, as evidenced by invoices or other substantiation reasonably required by City.

ii. **Landlord Change Orders.** If after City's approval of the Construction Documents, Landlord requests or is required by a third party or government agency to make any change, addition, or alteration thereto relating to the design or specifications of the Leasehold Improvement Work ("**Landlord Change Order**"), Landlord will provide City with proposed plans and specifications for the change, addition, or alteration, together with notice of any delay in the anticipated date of Substantial Completion that would result from the Landlord Change Order. Any Landlord Change Order will be subject to City's prior written approval, in accordance with Paragraph 1.e above. No approval by City of any Landlord Change Order will relieve or modify Landlord's obligations to complete the construction of the Leasehold Improvements in accordance with the approved Construction Schedule, or limit any of City's rights or remedies under this Work Letter or under the Lease. Landlord will be solely responsible for the cost of the Landlord Change Order, including the costs of preparing the plans and specifications, and none of the costs for or related to any Landlord Change Order will be paid or deducted from the Allowance, if applicable.

iii. **Appointment of Representatives.** City and Landlord will each designate and maintain at all times during the design and construction period a project representative ("**Representative**"), and an alternate for the Representative ("**Alternate**"), each of

whom will be authorized to confer and attend meetings and represent such party on any matter relating to this Work Letter. The initial Representatives and Alternates are:

City: Representative Floors 1 and 8 Leslie Giovanelli  
Alternate Jeff Sues

City Representative Floors 9, 10, 11: Kay Kim  
Alternative: Peter Byrne

Landlord: Representative Paul Wallace  
Alternate: Mariusz Gajdka

Each party may at any time and from time to time change its Representative or Alternate by written notice to the other party. Each party's Representative or Alternate must be available during ordinary business hours so that questions and problems may be quickly resolved and so that the Leasehold Improvements may be completed economically and in accordance with the Construction Schedule. All approvals made by City's Representative or Alternate must be made in writing.

2. Permits

a. Responsibility for Obtaining Permits. Landlord is responsible for obtaining all governmental permits and approvals required to commence and complete the Leasehold Improvement Work, and promptly on receipt of any permit or approval, Landlord will deliver copies of it to City. Subject to the Allowance, if applicable, City is responsible for all costs associated with obtaining these permits and approvals. Landlord will use its commercially reasonable efforts to obtain all needed approvals and permits on or before two (2) weeks from date of submission for permit. Landlord is responsible for calling for all inspections required by City's Bureau of Building Inspection.

3. Construction

a. Construction of Leasehold Improvements. After City's approval of the Construction Documents, Landlord will cause the Leasehold Improvements to be constructed and installed in a good and professional manner in accordance with sound building practice and in conformity with the Construction Documents, as revised by any approved Change Orders, and the terms of this Work Letter. City will not have any obligation for any work except as provided in this Work Letter.

b. Construction Schedule. Landlord will commence construction of the Leasehold Improvements within five (5) days after approval of all required permits for construction in accordance with the approved Construction Documents, and will diligently pursue construction to completion, all in accordance with the construction schedule set forth below (the "**Construction Schedule**").

c. Status Reports; Inspections. Landlord will keep City apprised of the status of permit approval and the progress of construction. Landlord or its Contractor will have a site meeting with the City representative weekly during construction. From time to time during the design and construction of the Leasehold Improvements, after reasonable advance oral or written notice to Landlord, City may enter the Premises at reasonable times to inspect the Premises, and City will use commercially reasonable efforts not to materially interfere with the construction. Landlord or its Representative will accompany City during any inspection.

d. General Conditions. The performance of all Leasehold Improvement Work by Landlord is subject to the following terms and conditions:

i. All of the Leasehold Improvement Work must be performed in compliance with all Laws bearing on construction of the Leasehold Improvements; and

ii. Without limiting the foregoing, the construction of the Leasehold Improvements must comply with all requirements of the Americans With Disabilities Act of 1990 and Title 24 of the California Code of Regulations and all other applicable Laws intended to provide equal accessibility for persons with disabilities (collectively, “**Disabled Access Laws**”).

e. Cooperation. Landlord will cooperate at all times with City in timely completing the Leasehold Improvements. Landlord will resolve any and all disputes arising out of the Leasehold Improvements Work in a manner that will allow work to proceed expeditiously.

f. Telecommunications, Data and Computer Cabling Installation Work to be Performed by Landlord (where applicable). At City’s cost, and at City’s direction, Landlord can have its contractor install data cabling.

**4. Payment for Work; Allowance**

a. Leasehold Improvement Work. Subject to Paragraph 4.a above, Landlord will pay for the cost of constructing and installing the Leasehold Improvements (defined below) as follows:

<b>Floor/City Dept.</b>	<b>Allowance</b>	<b>Amounts in Excess of Allowance</b>
8 (DPH)	\$0	City to make progress payments on receipt of required documentation in accordance with subparagraph (d) below.
9 (DPH)	\$0	City to make progress payments on receipt of required documentation in accordance with subparagraph (d) below.
10 (DPH)	\$0	City to make progress payments on receipt of required documentation in accordance with subparagraph (d) below.
11 (DPH)	\$0	City to make progress payments on receipt of required documentation in accordance with subparagraph (d) below.

b. City’s Approval of Costs. The costs of the Leasehold Improvement Work must be set forth in a detailed construction budget prepared by Landlord and Contractor and approved by City. The approved construction budget must show all costs funded by the Allowance and any other costs to be paid by City in line items in cost categories. Within five (5) days of City’s approval of the Construction Documents, Landlord will provide City with an initial construction budget for its approval. If the Leasehold Improvements cannot be completed in strict conformity with the most recently approved construction budget, Landlord must immediately submit to City for its approval a revised construction budget and identify to City changes in line items and the reasons for the changes. If further changes are required, then Landlord will seek City’s approval, following the same procedures. No costs will be included in the Allowance, and City will not be obligated to pay any costs in excess of the Allowance, unless and until City approves the construction budget and any revisions. City may approve or disapprove any construction budget or revisions in its reasonable judgment. City will not unreasonably delay its approval or disapproval. The most recently approved construction budget will supersede all previously approved budgets.

c. **Required Documentation of Costs.** Landlord will provide City with copies of (i) all invoices received by Landlord from the Contractor in connection with the construction of the Leasehold Improvements, (ii) satisfactory evidence of payment of the invoices, including unconditional lien waivers, or if the invoices have not been paid, conditional lien waivers; all lien waivers must meet the requirements of California Civil Code Section 8124 and be in the form prescribed by California Civil Code Sections 8132, 8134, 8136, and 8138, as applicable, and be executed by each subcontractor and material supplier, and (iii) any additional supporting documentation substantiating the Contractor's right to payment as City may reasonably require, such as copies of requisitions from subcontractors and material suppliers.

**5. Substantial Completion**

a. **Construction Schedule.** Landlord will use its commercially reasonable efforts to complete the Leasehold Improvement Work on or before the date that is seventy-five (75) days following Landlord's receipt of permits for the Leasehold Improvement Work. In no event will construction of the Leasehold Improvements be Substantially Completed later than 120 days following Landlord's receipt of permits for the Leasehold Improvement Work, except as extended by Tenant Delays and Unavoidable Delays (as defined in Paragraph 6 below). Landlord will notify City when the Leasehold Improvement Work is in fact Substantially Completed and the Premises are ready for occupancy by City. Promptly after City receives Landlord's notice of substantial completion, City or its representatives will accompany Landlord on an inspection of the Premises on a mutually agreeable date.

b. **Substantial Completion.** The Leasehold Improvements will be deemed to be "Substantially Completed" when (i) all necessary inspections required for occupancy of the Premises have been completed and signed off as approved by the appropriate governmental authority(ies), and (ii) a temporary or permanent certificate of occupancy for City's occupancy of the Premises has been issued by the appropriate governmental authority, (iii) Landlord has delivered an HVAC Air Balance Report to City detailing that any HVAC system installed as part of the Improvements, including any HVAC they modify, performs as designed, (iv) Landlord has run the HVAC so as to have performed a three (3) day "burn off", (v) the exterior windows have been cleaned or scheduled for cleaning within thirty (30) days, (vi) City, through its Director of Property, shall have approved the Leasehold Improvements, which shall be approved or disapproved within five (5) days or deemed approved, and (vii) Landlord reasonably determines and certifies in writing to City that the Leasehold Improvements have been Substantially Completed in accordance with the Construction Documents to the extent necessary to enable City to occupy the Premises and to conduct its normal business operations in the Premises without unreasonable impairment or interference, but subject to "punchlist" items, the completion of which will not unreasonably interfere with City's normal business operations at the Premises. At its option, City may approve the Leasehold Improvements even though there remain defective or incomplete minor details that would not interfere with City's use. Landlord will diligently pursue to completion all defective or incomplete details. In addition, City may present to Landlord within thirty (30) days after acceptance of the Premises, or as soon after acceptance as practicable, a written "punchlist" consisting of any items that have not been finished in accordance with the Construction Documents and the terms of the Lease and this Work Letter. Landlord will promptly complete all defective or incomplete items identified in the punchlist, but not more than within thirty (30) days after the delivery of the punchlist. City's failure to include any item on the punchlist will not alter Landlord's responsibility under the Lease or this Work Letter to complete all Leasehold Improvement Work in accordance with the

Construction Documents and comply with the terms of the Lease and this Work Letter, or constitute a waiver of any latent defects.

**6. Delays in Construction**

a. **Unavoidable Delays.** "Unavoidable Delays" means any delays by reason of acts of nature, accidents, breakage, repairs, strikes, lockouts, other labor disputes, inability to obtain labor or materials after using diligent and timely efforts, enemy action, civil commotion, epidemics, pandemics, and related governmental orders and requirements (and private sector responses to comply with those orders and requirements); protests; riots; demonstrations; or by any other reason without fault and beyond the reasonable control of the party obligated to perform. If an Unavoidable Delay occurs, the party affected by the Unavoidable Delay will give prompt written notice to the other of the event causing the Unavoidable Delay and the length of the projected delay in performance, and will continue to keep the other party regularly informed of the status of the Unavoidable Delay. Under no circumstances may the number of days of Unavoidable Delays asserted with respect to the Leasehold Improvement Work exceed a total of sixty (60) days, unless caused by Force Majeure .

b. **Tenant Delays.** Subject to any Unavoidable Delay, City will be responsible for any delay in the construction of the Leasehold Improvements resulting solely and directly from any of the following (collectively, "**Tenant Delays**"): (i) City's failure to review the plans and specifications within the time provided in this Work Letter, (ii) City Change Orders to the Construction Documents, and (iii) City's failure to review any costs to be included in the Allowance within the time provided in this Work Letter. Tenant Delays in the completion of construction of the Leasehold Improvement Work will extend the date for Substantial Completion for each day of the Tenant Delay (except as provided in clause (ii) above). Notwithstanding the foregoing, City will be responsible and the date for Substantial Completion will be extended only to the extent any delays are actually and directly caused by Tenant Delays.

**7. General Provisions.**

a. **Notices.** Except as may be otherwise specifically provided in this Work Letter, any notice given under this Work Letter must be in writing and given by delivering the notice in person, by commercial courier or by sending it by first class mail, certified mail with a return receipt requested, or Express Mail, return receipt requested, with postage prepaid, and addressed to the parties as follows:

City:

Real Estate Division  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102  
Attn: Director of Property  
Trinity Management Services  
1145 Market Street, 12<sup>th</sup> Floor  
San Francisco, CA 94103  
Attn: Paul Wallace

Landlord:

or any other address as a party may designate to the others as its new address for notices by notice given to the others in accordance with the provisions of this paragraph. A properly addressed notice transmitted by one of the foregoing methods will be deemed received upon confirmed delivery, attempted delivery, or rejected delivery. Neither party may give official or binding notice by email.

b. **Landlord's Duty to Notify City.** Landlord will promptly notify City in writing of (i) any written communication that Landlord may receive from any governmental, judicial, or



legal authority giving notice of any claim or assertion that the Property, Building, or Leasehold Improvements fail in any respect to comply with applicable Laws; (ii) any known material adverse change in the physical condition of the Property, including any damage suffered as a result of earthquakes; and (iii) any known default by the Contractor or any subcontractor or material supplier, or any known material adverse change in the financial condition or business operations of any of them.

c. **Prevailing Wages and Apprentices.** Any person performing labor in the construction of the Leasehold Improvements that Landlord is obligated to provide under this Work Letter will be paid not less than the highest prevailing rate of wages and Landlord will include in any contract for construction of the Leasehold Improvements a requirement that all persons performing labor under the contract will be paid not less than the highest prevailing rate of wages for the labor performed. In connection with the construction of the Leasehold Improvements under this Work Letter, Landlord will comply with all the provisions of subsection (b) of San Francisco Charter Section A7.204 and Section 6.22(E) of the San Francisco Administrative Code. In addition, if the Leasehold Improvements are Covered Construction (as defined in San Francisco Administrative Code Section 23.61), Landlord will pay the Prevailing Rate of Wages (as defined in San Francisco Administrative Code Section 23.61), employ Apprentices (as defined in San Francisco Administrative Code Section 23.61), and comply with all the provisions of Section 23.3 of the Lease, and San Francisco Administrative Code Section 23.61 of the regarding the Leasehold Improvements.

d. **Tropical Hardwood and Virgin Redwood Ban.**

Except as expressly permitted by the application of San Francisco Environment Code Sections 802(b) and 803(b), neither Landlord nor any of its contractors may 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.

City urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood, or virgin redwood wood products.

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

e. **Days; Incorporation of Exhibits.** Unless otherwise provided in this Work Letter, all periods specified by a number of days will refer to business days. Saturdays, Sundays, and recognized City holidays will not constitute business days. Exhibits attached to this Work Letter, are made a part of this Work Letter by this reference.

f. **Approvals.** City is entering into this Work Letter in its proprietary capacity and not as a regulatory agency with certain police powers. Notwithstanding anything to the contrary in this Work Letter or the Lease, no approval by City of the plans for the Leasehold Improvements (including the Design Development Documents or Construction Documents or Change Orders), completion of the Leasehold Improvement Work or any other approvals by City under this Work Letter or the Lease will be deemed to constitute approval of any governmental or regulatory authority with jurisdiction over the Premises. All approvals or other determinations

of City as tenant under this Work Letter or the Lease may be made by City's Director of Property unless otherwise specified.

**8. Time of the Essence.** Time is of the essence with respect to all provisions of this Work Letter where definite time for performance is specified, including the date for Substantial Completion.

The parties have executed this Work Letter as of the date of the Lease.

LANDLORD:

TRINITY CENTER LLC, a Delaware limited liability company

By: M. T. Sepina

Its: PRESIDENT

CITY:

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

By: \_\_\_\_\_  
ANDRICO Q. PENICK  
Director of Property

RECOMMENDED:

\_\_\_\_\_  
*[Department Authority]*

APPROVED AS TO FORM:  
DAVID CHIU, City Attorney

By: \_\_\_\_\_  
Nancy Taylor  
Deputy City Attorney

**EXHIBIT H**

**FORM OF MEMORANDUM OF LEASE**

RECORDING REQUESTED BY, AND  
WHEN RECORDED, MAIL TO:

City and County of San Francisco  
Real Estate Division  
25 Van Ness Avenue, Suite 400  
San Francisco, California 94102  
Attn: Director of Property

Exempt from recording fees under Government Code  
Section 27383.

Documentary Transfer Tax: NONE – Exempt under San  
Francisco Business and Tax Regulations Code Section  
1105

Address 1145 Market Street  
(Space above this line reserved for Recorder's use only)  
Block 3702, Lot 044

**MEMORANDUM OF LEASE**

This Memorandum of Lease ("**Memorandum**"), dated for reference purposes as of \_\_\_\_\_, 20\_\_, is by and between TRINITY CENTER LLC, a Delaware limited liability company ("**Landlord**"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**").

**Recitals**

A. Landlord and City have entered into that certain Lease, dated \_\_\_\_\_, 20\_\_ (the "**Lease**"), under which Landlord leased to City and City leased from Landlord the real property more particularly described in the attached **Exhibit A** (the "**Property**") and granted City the right to purchase the Property under certain circumstances (the "**First Right of Refusal**").

B. Landlord and City desire to execute this Memorandum to provide constructive notice of the Lease and the First Right of Refusal to all third parties.

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. **Term.** Under the terms of the Lease, Landlord leased the Property to City for a term commencing on the date Landlord delivers possession of the Property to City as set forth in the Lease. The Term of the Lease will expire on the date that is July 31, 2034 (as defined in the Lease), subject to two (2) five (5) year options to extend (subject to the terms and conditions of the Lease), unless earlier terminated in accordance with the terms of the Lease.

2. Lease Terms. Landlord leases the Premises to City on the terms and conditions of the Lease, which are incorporated into this Memorandum by reference as if they were fully set forth in this Memorandum; the rights and obligations of Landlord and Tenant are contained in the Lease. This Memorandum does not and will not be deemed to modify, alter, or amend the Lease in any way. If any conflict exists between the terms of the Lease and this Memorandum, the terms of the Lease will govern. Except as otherwise defined in this Memorandum, capitalized terms have the meanings given them in the Lease.

3. Successors and Assigns. This Memorandum and the Lease bind and will inure to the benefit of the parties and their respective heirs, successors, and assigns, subject, to the provisions of the Lease.

IN WITNESS WHEREOF, Landlord and City have executed this Memorandum of Lease as of the day and year first written above.

LANDLORD:

TRINITY CENTER LLC, a Delaware limited liability company

By:

Name:

Its:

CITY:

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation,

By:

\_\_\_\_\_  
ANDRICO Q. PENICK  
Director of Property

**A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.**

State of California                    )  
  ) ss  
County of \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_,  
personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be  
the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me  
that he/she/they executed the same in his/her/their authorized capacity(ies), and that by  
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the  
person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.**

State of California                     )  
  ) ss  
County of \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_,  
personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be  
the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me  
that he/she/they executed the same in his/her/their authorized capacity(ies), and that by  
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the  
person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.**

State of California                    )  
  ) ss  
County of \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_,  
personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be  
the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me  
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his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the  
person(s) acted, executed the instrument.

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paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)