

WAREHOUSE LEASE

between

J.D. HARNEY, Inc. a California corporation and JOHN DANIEL HARNEY AND
BERNADETTE PATRICIA HARNEY, CO-TRUSTEES OR SUCCESSOR TRUSTEE OF THE
JOHN DANIEL HARNEY AND BERNADETTE PATRICIA HARNEY REVOCABLE
LIVING TRUST UNDER AGREEMENT DATED AUGUST 13, 1987, AS COMMUNITY
PROPERTY
and MM1495WALL LP, a California limited partnership,
as Landlord

In Process
and

CITY AND COUNTY OF SAN FRANCISCO,
as Tenant

For the lease of

2205 Jennings Street
San Francisco, California

July 26, 2023

WAREHOUSE LEASE

THIS WAREHOUSE LEASE (this “**Lease**”), dated for reference purposes only as of July 26, 2023, is by and between J.D. HARNEY, Inc. a California corporation and JOHN DANIEL HARNEY AND BERNADETTE PATRICIA HARNEY, CO-TRUSTEES OR SUCCESSOR TRUSTEE OF THE JOHN DANIEL HARNEY AND BERNADETTE PATRICIA HARNEY REVOCABLE LIVING TRUST UNDER AGREEMENT DATED AUGUST 13, 1987, AS COMMUNITY PROPERTY, and MM1495WALL LP, a California limited partnership (collectively, “**Landlord**”), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“**City**” or “**Tenant**”).

Landlord and Tenant 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.

Landlord:	J.D. HARNEY, Inc., a California corporation and JOHN DANIEL HARNEY AND BERNADETTE PATRICIA HARNEY, CO-TRUSTEES OR SUCCESSOR TRUSTEE OF THE JOHN DANIEL HARNEY AND BERNADETTE PATRICIA HARNEY REVOCABLE LIVING TRUST UNDER AGREEMENT DATED AUGUST 13, 1987, AS COMMUNITY PROPERTY and MM1495WALL LP, a California limited partnership
Tenant:	City and County of San Francisco
Building (<u>Section 2.1</u>):	The warehouse building located at 2205 Jennings Street, San Francisco, CA
Premises (<u>Section 2.1</u>):	Approximately 10,000 rentable square feet of warehouse space in the Building, plus approximately 5,000 square feet of fenced parking and yard space, located at 2205 Jennings Street, San Francisco, CA and further described in <u>Exhibit A</u> attached hereto
Term (<u>Section 3</u>):	Three (3) years
Commencement Date:	[_____], 2023
Expiration Date:	December 31, 2026

Base Rent (Section 4.1):

Rent Schedule:

[_____], 2023 –	\$22,000.00 per month
[_____], 2024	\$22,660.00 per month
[_____], 2024 –	\$23,339.80 per month
[_____], 2025	
[_____], 2025 –December 31,	
2026	

Extension Option: (Section 3.3):

One (1) option to extend the Term for an additional term of five (5) years, exercisable by Tenant by notice to Landlord given not later than six (6) months prior to the expiration of the initial Term, but no sooner than twelve (12) months prior to the expiration of the initial Term

Real Estate Taxes and Operating Costs:

Tenant to pay Tenant’s Share of Real Estate Taxes and Operating Costs

Base Year (Section 4.5):

2023

Tenant’s Percentage Share (Section 4.5):

50%

Use (Section 5.1):

Storage of cable and related technological equipment, vehicles, and departmental inventory for the City Department of Technology

Utilities (Section 9.1):

Tenant will pay separately metered utilities

Notice Address of Landlord (Section 24.1):

Aralon Properties
Attn: Director of Property Management
482 Bryant Street
San Francisco, CA 94107

Landlord’s Key Contact:

Attn: Michael Ware
Aralon Properties
482 Bryant Street
San Francisco, CA 94107
415-330-3500 x1125
Email: michael@aralonproperties.com

Tenant’s Notice Address (Section 24.1):

Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, California 94102

Attn: Director of Property
Re: 2205 Jennings

with a copy to:

Department of Technology
200 Paul Ave Building B
San Francisco, CA 94124
Attn: Joseph John
Re: 2205 Jennings
Email: joseph.john@sfgov.org

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: 2205 Jennings
Email: Jessie.Cassella@sfcityatty.org

Tenant's Key Contact:

Joseph John
Department of Technology
200 Paul Ave, Building B
San Francisco, CA 94124
Re: 2205 Jennings
Email: joseph.john@sfgov.org

Tenant Contact Telephone No.:

628-652-5412

Tenant's Alternate Contact:

Jeff Suess
25 Van Ness Suite 400
San Francisco, CA 94112
Re: 2205 Jennings
Email: jeff.suess@sfgov.org

Tenant's Alternate Contact Telephone No.:

415-554-9873

Brokers (Section 24.8):

None

2. PREMISES

2.1 Lease Premises

Landlord leases to Tenant and Tenant leases from Landlord, subject to the provisions of this Lease, approximately ten thousand (10,000) rentable square feet of warehouse space in the building identified in the Basic Lease Information (the "**Building**"), plus approximately five thousand (5,000) square feet of fenced parking and yard space, located at 2205 Jennings Street in the City and County of San Francisco and further described in **Exhibit A** attached hereto (collectively, the "**Premises**"), provided, however, that the mezzanine inside the Building is not included in the rentable square feet, shall not be part of the Premises, and shall not be occupied by Tenant.

2.2 Intentionally Omitted.

2.3 Condition of the Premises Upon Delivery Tenant acknowledges that it is currently occupying the Premises and, subject to Landlord's obligations under Section 8.1 and Section 10.1 below, Tenant accepts the Premises in their existing "as is" condition, with all faults and defects and without any representation or warranty of any kind, express or implied.

2.4 Disability Access

California Civil Code Section 1938 requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("CASp") to determine whether the property meets all applicable construction-related accessibility requirements.

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, at City's cost, 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 will be paid by the City.

2.5 Reserve Rights. Landlord reserves the right to do the following from time to time, in accordance with all applicable Laws, provided, however, that Landlord shall not interfere with City's access to, intended use or ability to operate within the Premises:

(a) *Changes.* To install, use, maintain, repair, replace and relocate pipes, ducts, shafts, conduits, wires, appurtenant meters and mechanical, electrical and plumbing equipment and appurtenant facilities for service to other parts of the Building or the Property, including without limitation, above the ceiling surfaces and below the floor surfaces and within the walls of the Premises and in the central core areas of the Building and in the Building common areas, and to install, use, maintain, repair, replace and relocate any pipes, ducts, shafts, conduits, wires, appurtenant meters and mechanical, electrical and plumbing equipment and appurtenant facilities servicing the Premises, which are located either in the Premises or elsewhere outside of the Premises;

(b) *Services.* To install, use, maintain, repair, replace, restore or relocate public or private facilities for communications and utilities on or under the Building and/or the Property.

3. TERM

3.1 Term of Lease

The Premises are leased for a term (the “**Term**”) commencing on [_____], 2023 (the “**Commencement Date**”). The Term will end on the earlier of (i) December 31, 2026 or (ii) the date that this Lease is earlier terminated under the provisions of this Lease (the “**Expiration Date**”), unless City extends the Term pursuant to Section 3.4.

3.2 Commencement Date and Expiration Date

The dates that the Term commences and expires under this Lease are the “Commencement Date” and the “Expiration Date.”

3.3 *Intentionally Omitted.*

3.4 Extension Option

Tenant shall have one (1) option to extend the Term (the “**Extension Option**”) for an additional period of five (5) years (the “**Extension Term**”). Tenant may exercise the Extension Option, if at all, by written notice (“**Extension Notice**”) to Landlord not later than six (6) months prior to the expiration of the initial Term, but no sooner than twelve (12) months prior to the expiration of the initial Term. Tenant’s Extension Notice must be a definitive election to exercise the Extension Option, and not merely an expression of interest or intent. If Tenant fails to deliver Tenant’s Extension Notice to Landlord strictly as and when required by this Section 3.4, then Tenant shall be deemed to have waived the Extension Option and the Extension Option shall lapse and be of no force or effect. If there is an uncured Event of Default on the date Tenant gives an Extension Notice, then Landlord may reject Tenant’s Extension Notice if Tenant fails to cure the Event of Default within ten (10) business days after Landlord’s written demand for Tenant to cure the Event of Default. If Tenant extends the Term as provided in this Section, then the word “Term” will mean and include the Extension Term, and the Extended Term will be on all of the terms and conditions contained in this Lease, except that (i) Tenant shall have no remaining Extension Option, and (ii) the Base Rent may be adjusted pursuant to Section 4.3 below. The Extension Option granted to Tenant in this Lease is personal to the original Tenant named in this Lease, and cannot be assigned to or exercised by anyone other than the original Tenant.

4. RENT

4.1 Base Rent

Beginning on the Commencement Date, Tenant will pay to Landlord, or Landlord’s agent as directed in writing by Landlord, the monthly Base Rent specified in the Basic Lease Information (the “**Base Rent**” or “**Rent**”). The Base Rent is payable at the address specified for Landlord in the Basic Lease Information, or other place as Landlord may designate in writing on not less than thirty (30) days’ advance notice. Tenant will pay the Base Rent monthly within thirty (30) days after invoice from Landlord and without any deductions or setoff except as otherwise provided in this Lease. If the Commencement Date occurs on a day other than the first day of a calendar month or the Expiration Date occurs on a day other than the last day of a calendar month, then the monthly payment of the Base Rent for 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 follows: On each Adjustment Date, the Base Rent for the following twelve-month period will be adjusted to equal three percent (3%) of the Base Rent for the lease year preceding the Adjustment Date.

4.3 Determination of Base Rent for the Extended Term

(a) At the commencement of the Extended Term, the Base Rent will be the greater of i) the monthly Base Rent in effect at the end of the initial Term increased by three percent (3%) for the first year of the Extension Term and then annual increases of three percent (3%) thereafter, or ii) the prevailing market rate for space of comparable size and location to the Premises then being offered for rent in other buildings similar in age, location, and quality to the Building (“**Comparable Space**”) situated within the Bayview 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, and (v) 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 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 if the prevailing market rates determined in the two appraisal reports 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.

(iv) Within thirty (30) days after the third appraiser is selected, the third appraiser will prepare an appraisal report determining the prevailing market rate and submit the report to Landlord and City. The prevailing market rate determined in the third appraisal report will then be averaged with the closer of the prevailing market rates from the two previous appraisals and the result will be the prevailing market rate. The determination of the third appraiser will be final and binding on the parties.

(v) If City's Director of Property does not approve the prevailing market rate as determined by the appraisal procedure specified above, the Director of Property may revoke City's exercise of the Extension Option, not later than thirty (30) business days after the appraiser's final determination.

(vi) 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 pay the cost of the appraiser it selects and one-half of the cost of the third appraiser.

4.4 Additional Charges

City will pay to Landlord any charges or other amounts required under this Lease as additional rent ("**Additional Charges**"), including the charges for Tenant's Percentage Share of Real Estate Taxes and Operating Costs, as provided below. All Additional Charges are payable to Landlord at the place where the Base Rent is payable. The Base Rent and Additional Charges are sometimes collectively referred to "**Rent.**"

4.5 Definitions

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

"Base Year" means the year specified in the Basic Lease Information.

"Tenant's Percentage Share" means the percentage specified in the Basic Lease Information.

"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, upon advance written notice to Tenant, may change the Expense Year to any other twelve (12) consecutive month period and, in the event of any such change, Tenant's Percentage Share of Operating Costs shall be equitably adjusted for the Expense Years involved in any such change. Expense Year shall not include the Base Year.

"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: (1) the cost of electricity, water, sewer, mechanical, telephone, ventilating, and all other utilities, (2) the cost of repairs and all labor and material costs related thereto, and the cost of general maintenance, cleaning and service contracts and the cost of all supplies, tools and equipment required in connection therewith, (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 (not including any taxes imposed under the Business and Tax Regulations Code based on payroll expense), and other labor costs and employee benefits relating to employees of Landlord or its Agents engaged in the operation, repair, or maintenance of the Building, allocated in proportion to the percentage of such person's working time actually spent working in connection with the Building, (5) reasonable management fees, (6) fees, charges and other costs of all independent contractors engaged by Landlord, allocated in proportion to the percentage of such person's working time actually spent working in connection with the Building, (7) accounting and legal expenses, (8) the fair market rental value of offices in the Building for the property manager, (9) the cost of capital improvements made to the Building after completion of its construction as a labor-saving or

energy saving device or to effect other economies in the operation or maintenance of the Building and which benefit the Premises, or made to the Building after the date of this Lease that are required under any governmental law or regulation that was not applicable to the Building at the time that permits for the construction thereof were obtained, unless caused by Landlord's deliberate or negligent violation of applicable Laws, and except to the extent such improvements are attributable to or are made for the primary benefit of a tenant or occupant other than Tenant, (10) 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, 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 Tenant or other tenants in the Building) which would, under generally accepted accounting principles, be considered an operating expense. The computation of Operating Costs shall be made in accordance with generally accepted accounting principles.

“Operating Costs” expressly do not include the following:

- (i) Costs of capital repairs, capital improvements, capital equipment, and capital tools, and rental payments and other related expenses incurred in leasing 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 (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 because of fire, windstorm, or other casualty or by the exercise of the right of eminent domain to the extent Landlord is entitled to be compensated through proceeds or insurance or condemnation awards, or would have been reimbursed if Landlord had in force all of the insurance required to be carried by Landlord under this Lease,
- (v) Costs incurred by Landlord if any portion of the Building is made untenable by fire or other casualty required to be insured against under the terms of the Lease and cost of earthquake repairs in excess of one hundred thousand dollars (\$100,000) per earthquake (for this purpose, an earthquake is defined collectively as the initial earthquake and the aftershocks that relate to the initial earthquake);

(vi) Costs for which the Landlord is entitled to be reimbursed (other than as a reimbursement of Operating Costs) 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;

(vii) 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;

(viii) 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;

(ix) 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 or the Property;

(x) 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;

(xi) 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 Property, or any violation of applicable Laws by Landlord or any other tenant or occupant of the Building;

(xii) 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;

(xiii) 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;

(xiv) Costs for which Landlord has been compensated by a management fee, and any management fees in excess of management fees normally charged by landlords of comparable buildings in San Francisco;

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

(xvi) 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 or the Property;

(xvii) 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 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;

(xviii) 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;

(xix) 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;

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

(xxi) “in-house” legal or accounting fees;

(xxii) 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 negligence or Landlord’s inability or unwillingness to make tax payments when due;

(xxiii) Fines, costs, penalties, or interest resulting from the negligence or fault of other tenants or of the Landlord or their Agents;

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

(xxv) Costs, fees, dues, contributions, or similar expenses for or related to charitable or political causes or candidates;

(xxvi) Costs as a result of repairs of latent defects in the design or original construction of the Building, or improvements made or installed by Landlord or any previous owner, or in the Building Systems;

(xxvii) 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;

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

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

(xxx) The wages and benefits of any employee who does not devote substantially all of his or her 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**i) Landlord's general corporate overhead and general and administrative expenses 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

(**xxx**ii) Any other expense that under sound real estate accounting principles would not be considered a maintenance or operating expense by landlord of comparable buildings in San Francisco.

(**xxx**iii) In the event that in the Base Year for Operating Costs or in any Expense Year the Building is less than ninety-five percent (95%) occupied, the Operating Costs shall be appropriately adjusted to reflect a ninety-five percent (95%) occupancy level. In no event shall Landlord recapture more than one-hundred percent (100%) of the Operating Costs in any Expense Year.

"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 all general or special real property taxes and general and special assessments, 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. Notwithstanding the foregoing, Real Estate Taxes (and Operating Costs) expressly do not include: (1) franchise, real property transfer, other transfer, inheritance, gross receipts, business registration, payroll expense, or capital stock taxes or income taxes of Landlord from all sources unless, due to a change in the method of taxation, any of such 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 Tenant's failure to pay its portion of Real Estate Taxes hereunder, or (3) any personal property taxes payable by Tenant hereunder or by any other tenant or occupant of the Building, (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; (5) any 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).

"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, Tenant's Percentage Share of Real Estate Taxes will be equitably adjusted for the Tax Year during the change.

4.6 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. If during the Base Year or any Expense Year, Landlord does not furnish any particular work or service (the cost of which, if performed by Landlord, would be included in Operating Costs) to a tenant who has undertaken that work or service in lieu of Landlord, Operating Costs will be deemed to be increased by an amount equal to the additional Operating Costs that would reasonably have been incurred during that period by Landlord if it had furnished the work or service to the tenant. Further, if after the Base Year, Landlord changes its custom and practice in operating the Building, adds services, or incurs expenses relating to separate items or categories or subcategories of Operating Costs that were not part of Operating Costs during the entire Base Year, then the Operating Costs for the Base Year will be grossed up to reflect what Operating Costs would have been if the custom or practice, additional services, separate items, or categories or subcategories of Operating Costs been provided during the entire Base Year. Operating Costs for the Base Year will not include market-wide labor-rate increases resulting from extraordinary circumstances, including boycotts and strikes, and utility rate increases resulting from extraordinary circumstances including conservation surcharges, boycotts, embargoes or other shortages, or amortized costs relating to capital improvements.

(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, after the Base Year, the Building is sold or improved and the Property and Building are reassessed, the Real Estate Taxes 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.

4.7 Calculation of Operating Costs and Real Estate Taxes

(a) Calculation of Operating Costs. The calculation of Operating Costs will be made in accordance with sound 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.

4.8 Payment of City's Percentage Share of Operating Costs

During the Term, commencing after the end of the Base Year, Tenant shall pay to Landlord each month, as Additional Charges, one twelfth (1/12) of Tenant's Percentage Share of the amount, if any, by which Operating Costs for each Expense Year exceed the Operating Costs for the Base Year. Tenant shall make such payments, in advance, in an amount estimated by Landlord in reasonable detail in a writing delivered to Tenant at least sixty (60) business days before the first payment of City's Percentage Share of Operating Costs is due. Landlord may revise such estimates of Operating Costs from time to time and Tenant shall thereafter make payments on the basis of such revised estimates, provided that no such revisions shall be retroactive and Landlord may not make any such revisions more than twice in any given Expense Year and no such revision may be made any earlier than four (4) months subsequent to the prior estimate for such Expense Year. With reasonable promptness not to exceed ninety (90) days after the expiration of each Expense Year, Landlord shall furnish Tenant with a statement (herein called "Landlord's Expense Statement"), setting forth in reasonable detail the actual Operating Costs for such Expense Year and Tenant's Percentage Share thereof. If Tenant's Percentage Share of the actual Operating Costs for such Expense Year exceeds the estimated Operating Costs paid by Tenant for such Expense Year, Tenant shall pay to Landlord (whether or not this Lease has terminated) the difference between the amount of estimated Operating Costs paid by Tenant and Tenant'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 Tenant for its Percentage Share of Operating Costs exceeds Tenant's Operating Costs Share of the actual Operating Costs for such Expense Year, such excess shall be credited against the next installments of City's Percentage Share of Operating Costs due from Tenant to Landlord hereunder, or refunded to Tenant, at Tenant's option.

4.9 Payment of City's Percentage Share of Real Estate Taxes

During the Term, commencing after the end of the Base Year, Tenant shall pay to Landlord each month, as Additional Charges, one twelfth (1/12) of Tenant'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. Tenant shall make such payments, in advance, in an amount estimated by Landlord in reasonable detail in a writing delivered to Tenant at least sixty (60) business days before the first payment of City's Percentage Share of Real Estate Taxes is due. With reasonable promptness not to exceed ninety (90) days after Landlord has received the tax bills for any Tax Year, Landlord shall furnish Tenant with a statement ("Landlord's Tax Statement") setting forth the amount of Real Property Taxes for such Tax Year and Tenant's Percentage Share thereof. If Tenant's Percentage Share of the actual Real Estate Taxes for such Tax Year exceeds the estimated Real Estate Taxes paid by Tenant for such Tax Year, Tenant shall pay to Landlord (whether or not this Lease has terminated) Tenant'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 Tenant for such Tax Year exceeds Tenant's Percentage Share of the actual Real Estate Taxes for such Tax Year, such excess shall be credited against the

next installments of Tenant's Percentage Share of Real Estate Taxes due from Tenant hereunder, or at Tenant's option, such excess shall be refunded to Tenant.

4.10 Intentionally Omitted.

4.11 Intentionally Omitted.

4.12 Intentionally Omitted.

4.13 Proration

If the Commencement Date or Expiration Date occurs on a date other than the first or last day of a Tax Year or Expense Year, then Tenant'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

Tenant shall have the right, upon not less than fifteen (15) business days' notice to Landlord, to audit the books and records of the Building related to Operating Costs and Real Estate Taxes. If such audit discloses any discrepancies which would result in a reduction of Tenant's Percentage Share of Operating Costs for any Expense Year, Landlord shall refund to Tenant the amount of any overpayment by Tenant within fifteen (15) business days. Tenant shall pay the cost of such audit, but if an audit discloses any discrepancies that result in a reduction of Tenant's Percentage Share of Operating Costs and/or Real Estate Taxes by four percent (4%) or more for any Expense Year or Tax Year, then Landlord will pay the commercially reasonable costs of the audit.

4.15 Records

Landlord will maintain 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 Tenant 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 Tenant and its representatives, at Tenant's expense, subject to the provisions of Section 4.14 (Audits).

4.16 Payments by Tenant

Landlord acknowledges that Tenant cannot make any payments to Landlord unless Landlord is qualified as an approved vendor in Tenant's financial and payment system. Therefore, Tenant 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 Tenant. More information about being an approved vendor with Tenant 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 Tenant receives Landlord's written notice and the Contract Monitoring Division confirms that Landlord has been approved as a Tenant 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 Tenant under the San Francisco Business and Tax Regulations Code. If, under that authority, any payment Tenant is required to make to Landlord under this Lease is withheld, then Tenant 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

Tenant may request that Landlord provide or arrange for additional services for the Premises, which Landlord may provide or arrange in its sole discretion. If Landlord elects to provide the requested additional services and Tenant has approved the cost and scope of those services in advance, then Tenant will pay Landlord as Additional Charges the cost of those services plus a ten percent (10%) project management fee. Landlord may not contract for or provide any services (and Tenant will not be obligated to pay for such services) without Tenant'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. Tenant will pay for the cost of the additional services within thirty (30) days after receipt of an invoice; provided, however, that Tenant may elect to provide any deposit or other prepayment that Tenant 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 Tenant, will be considered a part of this Lease.

5. USE

5.1 Permitted Use

Tenant may use the Premises for storage of cable and related technological equipment, vehicles, and departmental inventory for the City Department of Technology 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.

5.2 Observance of Rules and Regulations

Tenant will observe the rules and regulations for the Building attached to this Lease as **Exhibit B** (the "**Rules and Regulations**"), but the provisions of this Lease will govern over any conflicting Rules and Regulations. Landlord may make reasonable changes to the Rules and Regulations, but all changes must be applicable to any 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 Tenant's burdens or obligations, (d) impose a charge on Tenant for services that this Lease expressly states are to be provided to Tenant at no charge, or (e) materially adversely affect any permitted use of the Premises. The changes permitted under this Section will be binding on Tenant within a reasonable implementation period after delivery of Landlord's written notice of the changes to Tenant. 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. Landlord will notify Tenant of any waiver of or special dispensation under the Rules and Regulations granted by Landlord to any other tenant in the Building and on request, Tenant will be entitled to the same waiver or special dispensation.

5.3 Interference with Access

Landlord will provide to Tenant uninterrupted access to the Building and the Premises 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 Tenant's Administrator, interrupt Tenant's access to the Premises if there is an immediate threat that will render the Property or any portion thereof unsafe for human occupancy. If Tenant's use of any of the Premises or access to the Premises is interrupted because the Property or any portion thereof 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 impairs Tenant's ability to carry on its business in the Premises, then the Rent will be abated based on the extent to which the condition interferes with Tenant's ability to normally and safely carry on its business at the Premises. If the condition continues for thirty (30) days or more after Tenant's use is interrupted or impaired then, without limiting any of its other rights under this Lease, Tenant may terminate this Lease, unless Landlord supplies Tenant with evidence reasonably satisfactory to Tenant that Tenant's normal and safe use will be restored within sixty (60) days after the date Tenant's use was interrupted or impaired, and Tenant's full use is actually restored within that sixty (60)-day period. Nothing in this Section will limit Tenant's rights with respect to any disruption due to casualty under Section 12 (Damage and Destruction).

6. *Intentionally Omitted.*

7. ALTERATIONS

7.1 Alterations by Tenant

Tenant 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 Tenant'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 Tenant in securing building and other permits and authorizations needed for any permitted Alterations. Landlord shall not be entitled to any construction or other administrative fee in connection with any Alteration. Tenant will not be required to remove any Alterations on the expiration or sooner termination of this Lease unless Landlord notifies Tenant in writing at the time Landlord approves the Alterations that they must be removed. Tenant is not required to remove any improvements not requiring Landlord's consent.

7.2 Title to Improvements

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

7.3 Tenant's Personal Property

All furniture, furnishings, equipment, trade fixtures, and articles of movable personal property installed in the Premises by or for Tenant and that can be removed without structural damage to the Premises (collectively, "**Tenant's Personal Property**") are and will remain Tenant's property. If City requests, and at Landlord's sole discretion, Landlord may assist City by ordering and installing City's Personal Property and City will reimburse Landlord for all fees, costs, and expenses approved by City in advance, including a ten percent (10%) project management fee to Landlord, within thirty (30) days after receipt of an invoice; provided,

however, that City may elect to provide any deposit or other expense required at the time of ordering City's Personal Property. To the extent possible, any maintenance contract or warranty in connection with the purchase or lease of tangible personal property will be optional (namely, City may, but is not required to, purchase a maintenance contract or warranty). To the extent feasible, Landlord and any vendors of Landlord will separately itemize any shipping charges. Although Landlord may order and install City's Personal Property, all items will remain City's Personal Property and not be considered leasehold improvements or constitute any component of the leasehold improvements. With regard to any personal property purchased by Landlord on behalf of City or leased by City under this Lease, (a) Landlord represents that it is fully compliant with the California Sales and Use Tax Law and warrants to City that Landlord that it will fulfill its use tax obligations under that law with respect to the subject transaction; (b) Landlord will accept a Use Tax Direct Payment Exemption Certificate in lieu of any use tax payment if the City, in its sole discretion, elects to provide such Certificate to Landlord; (c) If the City pays use tax to Landlord, Landlord will remit the entire amount of the use tax payment to the state and provide the City with a receipt in accordance with the California Sales and Use Tax Law; and (d) Landlord will be liable to the City for all amounts of use tax paid to Landlord that Landlord fails to remit to the State. This obligations of Landlord under the foregoing sentence will survive and termination or expiration of the Lease.

At any time during the Term, Tenant may remove any of Tenant's Personal Property, and Tenant will repair any damage to the Premises resulting from that removal. On the expiration or earlier termination of this Lease, Tenant will remove Tenant's Personal Property from the Premises in accordance with Section 20 (Surrender of Premises). Landlord acknowledges that some of Tenant'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 Tenant ("**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 Tenant's reasonable request, Landlord shall execute and deliver any commercially reasonable document required by any supplier, lessor, or lender in connection with the installation of any items of Secured Personal Property in the Premises, under which Landlord waives any rights 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 Tenant'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 Tenant's notice thereof.

8. REPAIRS AND MAINTENANCE

8.1 Landlord's Repairs

At its cost, Landlord will repair and maintain all structural supporting portions of the Building in similar condition, as to other warehouse facilities including the roof, foundation, bearing and exterior walls, of the Building (collectively, the "Building Systems") in a commercially reasonable condition. Without limiting the foregoing, Landlord will, and will not permit any other tenants of the Building to disturb or interfere with Tenant's use of the Premises

or permit to be done in or about the Building or the Property anything that is illegal, is dangerous to persons or property, or constitutes a nuisance.

8.2 Tenant's Repairs

At the City's cost, the Landlord will repair and maintain at its cost the non-structural portions of the Premises, including without limitation, (i) all interior surfaces, ceilings, walls, door frames, window frames, floors, carpets, draperies, window coverings and fixtures, (ii) all windows, doors, roll-up doors, locks and signs, (iii) all electrical, plumbing, sewage, including plumbing and sewage pipes, fixtures and fittings in the Premises, (iv) all phone lines, electrical wiring, equipment, switches, outlets, and light bulbs, (v) all exterior surfaces, fences, and gates. Tenant shall, at its sole cost and expense, cause to be maintained in good operating condition and repair (including making replacements, when necessary) all ventilating equipment installed in the Premises. Subject to Landlord's warranty under Section 10.1 (Premises Condition) and Landlord's repair and maintenance obligations under this Lease, Tenant will repair and maintain at its cost the interior portions of the Premises, except for ordinary wear and tear and damage by casualty or condemnation. Tenant will make any required repairs and replacements to the interior of the Premises that Landlord specifies in writing (a) at Tenant's cost, (b) by contractors or mechanics selected by Tenant 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 Tenant's Charter and Administrative Code. At all times during the Term, promptly after Tenant's reasonable notice, Landlord will provide Tenant 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 Tenant. Tenant shall be responsible for its janitorial service and shall keep the Premises, the parking and yard space free of debris, clean, and sanitary.

8.3 Liens

Tenant will keep the Premises free from liens arising out of any work performed, material furnished, or obligations incurred by Tenant 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. Tenant will give Landlord at least ten (10) days' prior written notice of commencement of any repair or construction by Tenant 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) electric current in amounts required for normal lighting and for the operation of personal computers and other normal office machines and equipment, on a twenty-four (24) hours-a-day, three hundred sixty-five (365) days-a-year basis ("Daily Basis"); and (b) water for lavatory, kitchen (if any), and drinking purposes on a Daily Basis. 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 Bay View District.

9.2 Utility Services

Commencing on the Commencement Date, and without regard to increases over a base year, Tenant shall pay for all water, sewer, gas, electricity, heat and cooling (if any), telephone, refuse collection, pest control, monitoring services and all other utilities and services furnished to Tenant at the Premises, together with all related installation or connection charges or deposits. In accordance with San Francisco Environment Code Chapter 20, Tenant shall complete a data release authorization form upon request, providing Landlord with access to PG&E accounts for benchmarking purposes. If the Premises are not separately metered, Landlord will have the right to bill Tenant for Tenant's use of utilities and services and Tenant shall pay the amount in full within fifteen (15) business days after receipt of an invoice. Landlord shall have the right to install separate metering for electricity, water or gas to the Premises or to separately charge Tenant for any quantity of such utilities consumed by Tenant beyond the amounts customarily consumed by tenants in the Property as reasonably determined by Landlord. To the extent any of the foregoing services are provided by Landlord, Tenant shall reimburse Landlord for all costs incurred by Landlord in connection with the provision of such services based on Landlord's reasonable estimate of the level of Tenant's use or consumption of such services. Landlord shall bill Tenant on a monthly or other periodic basis for such services and Tenant shall pay such amounts within ten (10) business days after Landlord's submittal of its statement.

9.3 Conservation

Landlord may establish reasonable measures to conserve energy and water, so long as these measures do not unreasonably interfere with Tenant'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 Tenant of the failure, stoppage, or interruption; diligently attempt to restore service as promptly as possible; and keep Tenant apprised of its efforts. If Landlord is unable to supply any of the Building's sanitary, electrical, water, fire protection, or other essential services serving the Premises that existed on the Commencement Date (collectively, "**Essential Services**") and that inability of Landlord impairs Tenant'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 Tenant's ability to normally carry on its business in the Premises, or, alternatively at Tenant's election, Tenant 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 Tenant'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 Tenant'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, Tenant may terminate this Lease on written notice to Landlord, unless Landlord supplies Tenant with evidence reasonably satisfactory to Tenant that the Essential Services will be reliably restored within sixty (60) days after the date Tenant's use was first interrupted, and the Essential Services are actually restored and reliable within the sixty (60)-day period. Tenant will not be entitled to any abatement of Rent or right to terminate if Landlord's inability to supply Essential Services to Tenant results solely to the negligent acts or omissions of Tenant 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 the City's cost, the Property, 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**"). For the avoidance of doubt, per Section 2.1, the mezzanine is not part of the Premises and is excluded from this Section 10.1. Landlord represents and warrants to City, and covenants with City, as follows to the best of Landlord's knowledge: (a) the physical structure, fixtures, and permanent improvements of the Premises (including any leasehold improvements) and all portions of the Property and the Building along the path of travel to the Premises (including the Building entrances, Common Areas, restrooms, and as of the date of construction, were 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**") as of the date that the Property, Building or leasehold improvements were constructed; (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) the Building, the Common Areas, and Building Systems serving the Premises were 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**") as of the date that they were constructed; (d) the Building, the Common Areas, and Building Systems serving the Premises were in compliance with all other applicable Laws as of the date that they were constructed; 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 Property, 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 Tenant's Compliance with Laws; Indemnity

Tenant will use the Premises during the Term in compliance with applicable Laws, except that Tenant 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 Tenant under Section 7 (Alterations) and the modifications are not otherwise Landlord's responsibility under this Lease. Tenant will be responsible for complying with any requirement of the Disabilities Laws relating to the placement of Tenant's furniture or other Tenant Personal Property and the operation of any programs in the Premises other than any requirement relating to the physical structure, fixtures, and permanent improvements of the Premises or portions of the Property or Building along the path of travel to the Premises, which are Landlord's obligation as provided in Section 10.1 (Premises Condition). Without limiting Section 16.1 (Tenant's Indemnity), Tenant will Indemnify Landlord against any and all Claims arising out of Tenant's failure to comply with all applicable Laws as provided in this Section.

10.3 Tenant's Compliance with Insurance Requirements

Tenant 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 Tenant 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 Tenant in the Premises; provided, however, Landlord will provide Tenant with reasonable prior written notice of any applicable insurance requirements and no insurance requirements will materially and adversely interfere with Tenant's normal business in the Premises.

11. SUBORDINATION

(a) Without the necessity of any additional document being executed by Tenant for the purpose of effecting a subordination, and subject to subsection (b) below, this Lease shall be subject and subordinate at all times to the following (each an "Encumbrance"): (a) any reciprocal easement agreements, ground leases or other underlying leases that may hereafter be executed affecting Landlord's interest in the Property, or any portion thereof, and (b) the lien of any mortgages or deeds of trust and renewals, modifications, consolidations, replacements and extensions of any of the foregoing that may hereafter be executed by Landlord in any amount for which any part of the Property, any ground lease or underlying lease, or Landlord's interest or estate therein is subject. Notwithstanding the foregoing, if the ground lessor, mortgagee, trustee, or holder of any such mortgage or deed of trust elects to have Tenant's interest in this Lease be superior to any such instrument, then upon notice thereof to Tenant, this Lease shall be deemed superior, whether this Lease was executed before or after the date of said instrument or the recording thereof. At Tenant's request, the holder of the Encumbrance shall enter into a subordination and nondisturbance agreement with Tenant in a form reasonably acceptable to Tenant evidencing such subordination or superiority of this Lease.

(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. Tenant shall attorn to and become the tenant of the successor-in-interest to Landlord, provided that Tenant has received proper written notice of such succession and the name and address of the successor landlord. Tenant's covenant under subsection (a) above to subordinate this Lease to any Encumbrance or other hypothecation hereafter executed is conditioned upon each such senior instrument containing the commitments specified in this subsection (b). The provisions of this Section shall be self-operative and no further instrument shall be required other than as provided in this Section. Tenant agrees, however, to execute upon request by Landlord and in a form reasonably acceptable to Tenant, any additional documents evidencing the priority or subordination of this Lease with respect to any such Encumbrance as provided herein.

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 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 Tenant will be entitled to an abatement of Rent until the Premises are restored to their condition before the casualty. The abatement in Rent shall be based on the extent to which the damage, the making of the repairs, and reoccupying the repaired Premises interferes with Tenant's use of the Premises. Landlord's repairs shall not include, and the Rent shall not be abated as a result of, any damage by fire or other cause to Tenant's Personal Property or any damage caused by the negligence or willful misconduct of Tenant or its Agents that is not covered by insurance.

(b) Within twenty (20) days after the date of the damage, Landlord will notify Tenant 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 Tenant's business in the Premises, and Tenant will pay the reduced Rent up to the date of termination. Landlord will refund to Tenant 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 Tenant 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 Tenant 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 Tenant 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 Tenant 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 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. Tenant and Landlord intend that the provisions of this Section govern fully in the event of a Taking and accordingly, Landlord and Tenant 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 Tenant's reasonable judgment, renders the remaining portion of the Premises untenable or unsuitable for continued use by Tenant for its intended purposes or otherwise materially adversely affects Tenant's normal operations in the Premises or access to the Premises, (ii) the condition rendering the Premises untenable or unsuitable or that materially adversely affects Tenant'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) Tenant elects to terminate.

(b) If a partial Taking of a substantial portion of the Building occurs, a but subsection (a) above does not apply, then within thirty (30) days after the Date of Taking either Tenant or Landlord may terminate this Lease by written notice to the other, provided that, as a condition to Tenant's right to terminate, the portion of the Building taken must, in Tenant's reasonable judgment, render the Premises unsuitable for continued use by Tenant for its intended purposes or otherwise materially adversely affect Tenant'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 (30th) 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) Tenant'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 Tenant will receive any portion of the Award for the unamortized cost of any leasehold improvements paid for by Tenant and any Award made specifically for Tenant's relocation expenses or the interruption of or damage to Tenant's business or damage to Tenant'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 Tenant will receive any portion of the Award for the unamortized cost of

any leasehold improvements paid for by Tenant in the portion of the Premises taken and any Award made specifically for Tenant's relocation expenses or the interruption of or damage to Tenant's business or damage to Tenant'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 Tenant 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, Tenant 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 Tenant and any out-of-pocket costs incurred by Tenant due to the temporary Taking for the period of the Taking.

14. ASSIGNMENT AND SUBLETTING

Except as provided in this Section, Tenant 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. Tenant shall have the right from time to time, with Landlord's prior written consent in each instance, which shall not be unreasonably withheld or delayed, to transfer this Lease or use and occupancy of all or any of the Premises to any department, commission or agency of the City and County of San Francisco for uses permitted under this Lease. **No assignment or subletting shall release Tenant from its obligations under this Lease.**

15. DEFAULT; REMEDIES

15.1 Events of Default by Tenant

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

(a) After Landlord is qualified as an approved vendor as provided in Section **Error! Unknown switch argument.** (Payments by Tenant) above, Tenant fails to make any timely payment of Rent and to cure the nonpayment within five (5) business days after receipt of written notice or 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, Tenant will have twenty (20) days after written notice from Landlord to cure any nonpayment.

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

(c) Tenant'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 Tenant commences the cure within the thirty (30)-day period and diligently prosecutes the cure to completion.

(d) An Event of Default shall constitute a default by Tenant under this Lease.

15.2 Landlord's Remedies

On the occurrence and during the continuance of any Event of Default by Tenant, 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 Tenant'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 Tenant 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 Tenant's right to possession, if Tenant 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 Tenant's other cure rights under this Lease), at its sole option, Tenant may cure the default at Landlord's expense if the default continues after thirty (30) days after the date Tenant gives notice to Landlord of Tenant'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 thirty (30)-day period, then the thirty (30)-day period will be extended if, promptly on receipt of Tenant's notice, Landlord advises Tenant 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. But if any default by Landlord continues for sixty (60) days and impairs Tenant's ability to carry on its normal business in the Premises, then Tenant may terminate this Lease on written notice to Landlord within thirty (30) days after the expiration of the 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 Tenant elects to cure Landlord's default, the Rent will be abated based on the extent to which the default interferes with Tenant's ability to carry on its normal business at the Premises. Tenant'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.

16. INDEMNITIES

16.1 Tenant's Indemnity

Tenant shall 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) Tenant's use of the Premises, or (b) any default by Tenant in the performance of any of its material obligations under this Lease, (c) any damage to any property or death, bodily or personal injury to any person occurring in or about the Premises, or (d) any negligent acts or omissions of Tenant or its Agents in, on, or about the Premises or the Property; provided, however, Tenant 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 Tenant under this Section, at

its sole option, Tenant may elect to defend the Claim by attorneys in City's Office of the City Attorney, by other attorneys selected by Tenant, or both. Tenant 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. Tenant's obligations under this Section will survive the termination of the Lease.

16.2 Landlord's Indemnity

Landlord will Indemnify Tenant and its Agents against any and all Claims incurred as a result of **(a)** any default by Landlord in the performance of any of its obligations under this Lease or any breach of any representations or warranties made by Landlord under this Lease, or **(b)** any negligent acts or omissions of Landlord or its Agents in, on, or about the Premises or the Property; provided, however, Landlord will not be obligated to Indemnify Tenant or its Agents to the extent any Claim arises out of the negligence or willful misconduct of Tenant or its Agents. In any action or proceeding brought against Tenant 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 Tenant 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 Tenant's Self-Insurance

Landlord acknowledges that Tenant maintains a program of self-insurance and Tenant is not required to carry any insurance with respect to this Lease. Tenant assumes the risk of damage to any of Tenant'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 (include earthquake sprinkler leakage) 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 Tenant's request, Landlord will provide to Tenant 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 Tenant (or, if the insurer refuses to provide notice to the Tenant, then Landlord will provide such thirty (30)-day prior notice to Tenant). Landlord waives any rights against Tenant 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 Tenant, 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 to Landlord and City (or, if such endorsement is not available from the insurer, Landlord will provide such notice to City).

(c) Landlord will maintain such umbrella policy and additional coverage as it reasonably determines necessary or as required by any Encumbrancer. The parties agree that the minimums set forth in this **Section Error! Reference source not found.** 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 Tenant 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 Tenant'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 Tenant 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 Tenant'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, Tenant 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 the Expiration Date, Tenant shall remove from the Premises all of Tenant's Personal Property, Tenant's telecommunications, data, and computer facilities and any Alterations Tenant desires or is required to remove from the Premises under the provisions of **Section 7.1** (Alterations by Tenant). Tenant will repair or pay the cost of repairing any damage to the Premises or the Building resulting from that removal. Tenant will not be required to demolish or remove from the Premises any of the leasehold improvements. Tenant'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:

(a) “**Environmental Laws**” means any Law relating to industrial hygiene, environmental conditions, or Hazardous Material, whether now in effect or later adopted.

(b) “**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 Property; and petroleum, including crude oil or any fraction thereof, natural gas, or natural gas liquids.

(c) “**Release**” when used with respect to Hazardous Material 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

To the best of Landlord’s knowledge, without investigation and without any duty to investigate, Landlord represents and warrants to City that the following statements are true and correct and will be true and correct as of the Commencement Date: (a) Landlord has not received written notice that the Property is in violation of any Environmental Laws; (b) the Property 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 and retail businesses, which limited use is and has been in compliance with Environmental Laws; (c) the Property 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 Property; and (f) the Property is not subject to any claim by any governmental regulatory agency or third party related to the Release of any Hazardous Material, and there is no inquiry by any governmental agency (including the California Department of Toxic Substances Control or the Regional Water Quality Control Board) with respect to the presence of Hazardous Material in the Building or in, on, under, or about the Property, or the migration of Hazardous Material from or to other real property. Subject to Tenant’s obligations under this Section below, Landlord will maintain the Property throughout the Term in compliance with all Environmental Laws that could affect the health, safety, and welfare of Tenant’s employees or Tenant’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 Tenant 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 Property, unless Tenant or its Agents caused such Release.

21.4 Tenant's Covenants

Neither Tenant nor its Agents shall cause any Hazardous Material to be brought upon, kept, used, stored, generated, or disposed of in, on or about the Premises or the Property, or transported to or from the Premises or the Property, in violation of any Environmental Laws.

21.5 Tenant's Environmental Indemnity

If Tenant breaches its obligations contained in the preceding Section 21.4 (Tenant's Covenants), or if Tenant or its Agents cause the Release of Hazardous Material from, in, on, or about the Premises or the Property, then Tenant 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 Tenant, its Agents, or Invitees of physical conditions of the Premises, or other parts of the Property, existing before Tenant's occupancy.

22. SPECIAL PROVISIONS

22.1 *Intentionally Omitted.*

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 Tenant 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 Tenant's Charter. Notwithstanding anything to the contrary contained in this Lease, there will be no obligation for the payment or expenditure of money by Tenant 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 Tenant after the fiscal year in which the Term of this Lease commences, sufficient funds for the payment of Rent are not appropriated, then Tenant may terminate this Lease, without penalty, liability, or expense of any kind to Tenant, as of the last date on which sufficient funds are appropriated. Tenant 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. 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 Tenant in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements.

Landlord will include, and require its Contractors and Subcontractors (regardless of tier) to include, the Prevailing Wage Requirements and the agreement to cooperate in Tenant enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.61. Each Construction Contract must name the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any Contractor or Subcontractor in accordance with San Francisco Administrative Code Section 23.61. 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 Tenant 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 Tenant 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 provisions of San Francisco Administrative Code Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 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 Tenant, or where the work is being performed for Tenant 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 Administrative Code Section 12B.2(b).

(d) CMD Form

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

(e) Incorporation of Administrative Code Provisions by Reference

The provisions of San Francisco Administrative Code Chapters 12B and 12C relating to non-discrimination by parties contracting for the lease of property to Tenant 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 Administrative Code Chapters 12B and 12C, including the remedies provided in those Chapters. Without limiting the foregoing, Landlord understands that under San Francisco Administrative Code Section 12B.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 Tenant 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 Tenant.

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 Resource-Efficient City Buildings

Landlord acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 713 relating to 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 Tenant 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 Tenant'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 Tenant.

23.10 Notification of Prohibition on Contributions

By executing this Lease, Landlord acknowledges its obligations under Section 1.126 of the Tenant'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 Tenant 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)** Tenant at Tenant’s address set forth in the Basic Lease Information; or **(b)** Landlord at Landlord’s address set forth in the Basic Lease Information; or **(c)** any other address designated by as either Landlord or Tenant 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 Tenant 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 Tenant 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 Tenant’s consent or approval, the Director of Property, or his or her designee, will be authorized to provide the consent or approval, except as otherwise provided by applicable Law, including the Charter of the City and County of San Francisco. Tenant’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 his or her designee; provided, however, material amendments or modifications to this Lease **(a)** changing the legal description of the Premises, **(b)** increasing the Term, **(c)** increasing the Rent, **(d)** changing the general use of the Premises from the use authorized under Section 5.1 (Permitted Use), and **(e)** any other

amendment or modification that materially increases Tenant'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 Tenant 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 Tenant's request, Landlord will provide Tenant with evidence reasonably satisfactory to Tenant 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 Tenant will include the clients, customers, invitees, guests, licensees, assignees, or subtenants of Tenant. All approvals, consents, or other determinations permitted or required by Tenant under this Lease, including Tenant's exercise of any option, must be made by or through Tenant'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 Tenant 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 Tenant 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 Tenant 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

(1) If Tenant 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 Tenant'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 Tenant may mutually agree in writing. Should Tenant hold over without Landlord's consent, the rent payable by Tenant during the period of such holding over shall be one hundred forty percent (140%) of the monthly Base Rent in effect during the last month of the Term of this Lease, and such tenancy shall otherwise be on the terms and conditions contained herein.

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

Tenant 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 Tenant, 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 Tenant and its Agents against Claims arising out of any assertion that would interfere with Tenant's right to quiet enjoyment as provided in this Section.

24.18 Bankruptcy

Landlord represents and warrants to Tenant 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. Tenant'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, Tenant 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 Tenant 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. In the event of any such transfer, Landlord shall be relieved of any obligations accruing hereunder from and after the date of such transfer and when (a) Landlord has provided notice to City of the name and address of Landlord's successor, and (d) Landlord has delivered to Tenant an express written assumption by the transferee of all of Landlord's obligations hereunder. Tenants sole remedy under this Section 24.19 shall be to withhold rent to Landlord's successor until Landlord has provided the notice to City.

24.20 Non-Liability of Tenant 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 Tenant will be personally liable to Landlord, its successors, or its assigns for any Tenant default or breach or for any amount that may become due to Landlord or its successors or assigns, or for any obligation of Tenant 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) City's Mayor and Board of Supervisors, at their sole and absolute discretion, adopt a resolution approving this Lease in accordance with all applicable Laws and (b) this Lease is duly executed by Landlord and 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 Tenant of that fact and the reasons for the suspension, disbarment, discipline, or prohibition together with any relevant facts or information requested by Tenant. If there is any suspension, disbarment, discipline, or prohibition that may result in the termination or suspension of this Lease, Tenant may terminate this Lease on written notice to Landlord. Landlord acknowledges that this certification is a material term of this Lease.

24.24 Intentionally Omitted.

24.25 Intentionally Omitted.

24.26 Cooperative Drafting

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

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.

[signatures follow]

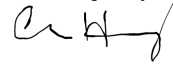
In Process

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.

In Process

LANDLORD:

DocuSigned by:

8/14/2023
9C95C7E76CA9468...

JOHN DANIEL HARNEY
CO-TRUSTEE OR SUCCESSOR TRUSTEE OF
THE JOHN DANIEL HARNEY AND
BERNADETTE PATRICIA HARNEY
REVOCABLE LIVING TRUST UNDER
AGREEMENT DATED AUGUST 13, 1987, AS
COMMUNITY PROPERTY

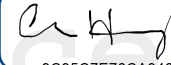
DocuSigned by:

8/14/2023
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BERNADETTE PATRICIA HARNEY
CO-TRUSTEE OR SUCCESSOR TRUSTEE OF
THE JOHN DANIEL HARNEY AND
BERNADETTE PATRICIA HARNEY
REVOCABLE LIVING TRUST UNDER
AGREEMENT DATED AUGUST 13, 1987, AS
COMMUNITY PROPERTY

J.D. HARNEY, Inc. a California corporation

In Progress

DocuSigned by:

8/14/2023
9C95C7E76CA9468...
By: _____
Name: _____
Its: _____

MM1495WALL LP, a California limited
partnership
By: MM PROPERTIES MANAGER LLC, a
California limited liability company, General
Partner

DocuSigned by:

8/14/2023
7DD6983E5A3B4B5...
By: _____
Thomas F. Murphy, Managing Member

TENANT:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
ANDRICO Q. PENICK
Director of Property

RECOMMENDED:

Department of Technology

APPROVED AS TO FORM:

DAVID CHIU, City Attorney

By: _____
JESSIE ALFARO-CASSELLA
Deputy City Attorney

In Process

EXHIBIT A

Approximately 10,000 rentable square feet of warehouse space in the Building, plus approximately 5,000 square feet of fenced parking and yard space, located at 2205 Jennings Street, San Francisco, CA



EXHIBIT B

BUILDING RULES AND REGULATIONS

- 1.** Except as set forth in the Lease, no advertisement, picture or sign of any sort shall be displayed on or outside the Premises without the prior written consent of Landlord. All advertisements, pictures and signs shall be subject to the terms, covenants and conditions of all Applicable Laws. No advertising medium or signage shall be displayed which can be experienced from the outside of any premises at the Property, including, without limitation, flashing lights, searchlights, blinking lights, loudspeakers, phonographs, radios or television. Landlord shall have the right to remove any such unapproved item without notice and at Tenant's expense.
- 2.** Tenant shall not attach anything to, or alter or puncture in any way, the ceiling of the interior of the Premises.
- 3.** Intentionally Deleted
- 4.** Except for any awning currently installed at the Premises, if any, no awning, canopy or other projection of any kind over or around the windows or entrances of the Premises shall be installed by Tenant without the prior consent of Landlord, and only such window coverings as are reasonably approved by Landlord shall be used in the Premises.
- 5.** Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance or any flammable or combustible materials on or around the Premises.
- 6.** Landlord shall furnish Tenant, free of charge, two keys to each door or lock in the Premises. Landlord may make a reasonable charge for any additional or replacement keys.
- 7.** No person shall go on the roof of the Building without Landlord's permission.
- 8.** Business machines and mechanical equipment belonging to Tenant which cause noise or vibration that may be transmitted to the structure of the Premises, to such a degree as to be objectionable to Landlord or other tenants or occupants of the Building, shall be placed and maintained by Tenant, at Tenant's expense, on vibration eliminators or other devices sufficient to eliminate noise or vibration.
- 9.** Tenant is responsible for the storage and removal of all trash and refuse. All such trash and refuse shall be contained in suitable receptacles stored behind screened enclosures at locations designated by Landlord or within the Premises, as designated by Landlord.
- 10.** Tenant shall not permit any animals, including, but not limited to, any household pets, to be brought or kept in or about the Premises, except service animals.
- 11.** The toilet rooms, toilets, urinals, wash bowls and other plumbing fixtures and plumbing systems 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 disposed of therein.
- 12.** Tenant shall be solely responsible for taking all actions necessary to protect the Premises from theft, robbery and pilferage, which includes keeping doors locked and other means of entry to the Premises closed.

13. Tenant shall ensure that all doors of the Premises are closed and locked, and that all water faucets, water apparatus and electrical equipment (other than security, life safety or refrigeration systems) are shut off before Tenant or its employees leave the Premises, so as to prevent waste or damage.

14. Tenant shall comply with all safety, security, fire protection and evacuation measures and procedures established by Landlord or any governmental agency. In the case of invasion, mob, riot, public excitement, or other circumstances rendering such action advisable in Landlord's opinion, Landlord shall be entitled (but not obligated) to prevent access to the Building and/or the Premises during the continuance of the same by such action as Landlord may deem appropriate, including closing entrances to the Building and/or the Premises.

15. All contractors and technicians rendering any installation service to Tenant at or about the Premises, including installation of telephone, telegraph equipment and Building systems, and all installations affecting floors, walls, woodwork, windows, ceilings and any other component of the Building and/or the Premises (or any portion thereof), shall be subject to Landlord's approval prior to performing services and subject to Landlord's supervision during the performance of such services.

16. These Rules are in addition to, and shall not be construed to in any way limit, Tenant's obligations under the Lease.

17. Landlord may waive any one or more of these Rules for the benefit of any particular tenant or occupant of the Property, but no such waiver by Landlord shall be construed as a waiver of such Rules in favor of any other tenant or occupant, nor prevent Landlord from thereafter enforcing any such. Rules against any or all of the tenants or occupants of the Building.

In Process