

OFFICE LEASE

between

1076 Howard Street LLC
as Landlord

and

CITY AND COUNTY OF SAN FRANCISCO,
as Tenant

For the lease of
1076 Howard Street
San Francisco, California

April 13, 2021

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LIST OF EXHIBITS

- EXHIBIT A — Floor Plan(s) of Building
- EXHIBIT B — Notice of Commencement Date
- EXHIBIT C — Stevenson Systems Report (selected pages)
- EXHIBIT D — Work Letter
- EXHIBIT E — *Intentionally Omitted*
- EXHIBIT F — *Intentionally Omitted*
- EXHIBIT G — *Intentionally Omitted*
- EXHIBIT H — Form of Memorandum of Lease

OFFICE LEASE

THIS OFFICE LEASE (this “**Lease**”), dated for reference purposes only as of April 13, 2021, is by and between 1076 HOWARD STREET LLC, a Delaware limited liability company (“**Landlord**”), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“**City**” or “**Tenant**”).

Landlord and City hereby agree as follows:

1. BASIC LEASE INFORMATION

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

Lease Reference Date:	April 13, 2021
Landlord:	1076 Howard Street LLC
Tenant:	CITY AND COUNTY OF SAN FRANCISCO
Building (<u>Section 2.1</u>):	1076 Howard Street, San Francisco, California
Rentable Area of Building (<u>Section 2.1</u>):	16,668 rentable square feet
Term (<u>Section 3</u>):	The Commencement Date is the date Landlord delivers the Building with the Leasehold Improvements Substantially Completed or deemed Substantially Completed, in accordance with this Lease and the Work Letter attached as <u>Exhibit D</u> (the “ Work Letter ”).
	The “ Estimated Commencement Date ” is the date occurring One Hundred Twenty (120) days following the Effective Date.
	The Expiration Date is the last day of the one hundred and second (102 nd) full calendar month after the Commencement Date.
Extension Option(s) (<u>Section 3.4</u>):	One additional term of five (5) years, exercisable by City as provided in <u>Section 3.4</u>

Base Rent (Section 4.1):

<u>Months of Lease</u>	<u>Annual Rent PSF</u>	<u>Aggregate Annual Rent</u>	<u>Monthly Rent</u>
1 through 12 (a)	\$51.25	\$854,235.00	\$ 71,186.25
13 through 24 (a)	\$52.79	\$879,903.72	\$73,325.31
25 through 36 (a)	\$54.37	\$906,239.16	\$ 75,519.93

37 through 48 (a)	\$56.00	\$933,408.00	\$77,784.00
49 through 60 (a)	\$57.68	\$961,410.24	\$80,117.52
61 through 72 (a)	\$59.41	\$990,245.88	\$82,520.49
73 through 84	\$61.20	\$1,020,081.60	\$85,006.80
85 through 96	\$63.03	\$1,050,584.04	\$87,548.67
97 through 102	\$64.92	\$1,082,086.56	\$90,173.88
(a) Note – notwithstanding the foregoing table, Tenant will be entitled to abatement of Base Rent as provided in Section 4.1 of the Lease.			
(b) Throughout the Term, the Base Rent increases shown in the table above will occur on each anniversary of the Commencement Date or, if the Commencement Date occurs on a date other than the first day of a calendar month, on the first day of the calendar month in which the Commencement Date occurred (an “ Adjustment Date ”).			

City’s Percentage Share (<u>Section 4.4</u>):	100%
Use (<u>Section 5.1</u>):	General office use and social services, including a sobering center (the “ Permitted Use ”).
Leasehold Improvements and Work Letter): (<u>Section 6</u>	Subject to the terms of the Work Letter (attached as Exhibit D), Landlord will complete the Leasehold Improvements at City’s cost after the application of the Tenant Improvement Allowance provided by Landlord equal to \$55.00 per rentable square foot of the Building.
Utilities (<u>Section 9.1</u>):	Landlord will provide Building heating, ventilation, air conditioning, elevators and water service, as provided in <u>Section 9.1</u> . City will contract and pay for any electricity and any other utility services necessary for City’s use of the Building directly with utility providers.
Notice Address of Landlord (<u>Section 24.1</u>):	1076 Howard Street LLC c/o Vantage Property Investors 1212 Highland Avenue Manhattan Beach, California 90266 Attn: Stuart Gulland Email: stuart@vantagepi.com
Landlord’s Key Contact:	Stuart Gulland
Landlord Contact Telephone No.:	(310) 874-5699
Landlord’s Alternate Contact:	Andrew Fox

Landlord's Alternate Contact Telephone No.: (310) 545-6013

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: **1076 Howard**

with a copy to: Department of Public Health
101 Grove Street
San Francisco, CA 94102
Attn: Kathy Jung

Email: Kathy.Jung@sfdph.gov

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: **1076 Howard Street**
Fax No.: (415) 554-4757

Tenant's Key Contact: Jeff Suess

Tenant Contact Telephone No.: 415-554-9873

Tenant's Alternate Contact: Josh Keene

Tenant's Alternate Contact Telephone No.: 415-554-9859

Brokers (Section 24.8): Mark Geisreiter of Newmark, representing 1076
Howard Street LLC

Other Noteworthy Provisions (Section 22): City has the right to purchase the Building as
provided in Section 22.

2. BUILDING

2.1 Lease of Building

Landlord leases to City and City leases from Landlord, subject to the provisions of this Lease, the building identified in the Basic Lease Information (the "**Building**") and shown on the floor plan(s) attached as Exhibit A. The Building contains the rentable area specified in the Basic Lease Information. Landlord and City hereby stipulate that the rentable area of the Building will be as set forth in the Basic Lease Information. Landlord and Tenant agree that the usable area of the Building has been verified by both parties and that Landlord is utilizing a deemed add-on load factor of 18% to compute the rentable area of the Building. Exhibits A and C attached to this Lease include certain pages from the report prepared by Stevenson Systems dated February 12, 2021. The Building, the land on which the Building is located, and all other improvements on or appurtenances to the land are referred to collectively as the "**Property**."

2.2 *Intentionally omitted*

2.3 Condition of the Building on Delivery

Landlord will deliver the Building to Tenant in good, broom clean condition, fully demised, water tight, with all Building Systems (as defined in Section 8.1 (Landlord's Repairs)) in good working order, condition, and repair, and the Building in compliance with all applicable Laws, as provided in Section 10.1 (Landlord's Compliance with Laws; Building Condition; Indemnity) with the Leasehold Improvements (as defined below) Substantially Completed by Landlord.

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.

City is advised that as of the Reference Date the Building has not been inspected by a CASp. The law does not require landlords to have the inspections performed, but Landlord may not prohibit City from obtaining a CASp inspection of the Building for its occupancy or potential occupancy if requested by City. If City elects to obtain an inspection, City and Landlord will mutually agree on the arrangements for the time and manner of the CASp inspection and City will pay for the CASp inspection fee and the cost of any repairs necessary to correct violations of construction-related accessibility standards will be paid by the party responsible for compliance under Section 10.1 of this Lease.

3. TERM

3.1 Term of Lease

The Building is leased for a term (the "**Term**") commencing on the date that Landlord has delivered the Building to City with the Leasehold Improvements (as defined below) Substantially Completed or deemed Substantially Completed, in accordance with the Work Letter, which may not be before the Effective Date, as provided in Section 24.22 (Effective Date). The Term will end on the expiration date specified in the Basic Lease Information, or the date that this Lease is earlier terminated under the provisions of this Lease, unless City extends the Term pursuant to Section 3.4 (Extension Option(s)), below.

3.2 Commencement Date and Expiration Date

The dates that the Term commences and expires under this Lease are the "**Commencement Date**" and the "**Expiration Date**." Notwithstanding the foregoing or anything to the contrary in this Lease, the occurrence of the Commencement Date is subject to Section 6 of the Work Letter. If the Commencement Date occurs on a date other than the Estimated Commencement Date provided in the Basic Lease Information, then Landlord will promptly deliver to City a notice substantially in the form of the attached **Exhibit B** confirming the actual Commencement Date, but Landlord's failure to do so will not affect the dates of commencement or expiration of the Term.

3.3 Delay in Delivery of Possession

Landlord will use commercially reasonable efforts to deliver possession of the Building with all of the Leasehold Improvements Substantially Completed in accordance with the Work Letter on or before the Estimated Commencement Date. If Landlord is unable to deliver possession of the Building by the Estimated Commencement Date, then, subject to the provisions of this Section below, the validity of this Lease will not be affected by Landlord's inability to

deliver possession except that City's obligations to pay Rent will not commence until the Commencement Date. If the Commencement Date is later or earlier than the Estimated Commencement Date, this Lease will still expire on the Expiration Date, unless sooner terminated under the provisions under this Lease. If Landlord is unable to deliver possession of the Building to City with the Leasehold Improvements Substantially Completed within one hundred eighty (180) days after Landlord's receipt of all permits necessary for the construction of the Leasehold Improvements (which 180-day period will be extended by one day for each day that Substantial Completion is delayed by Tenant Delays and/or Unavoidable Delays), then City may give Landlord written notice of City's intention to terminate this Lease (a "**Cancellation Notice**"), designating a date of termination (the "**Cancellation Date**") which is at least thirty (30) days after the date of the Cancellation Notice. Thereafter, if Landlord is unable to deliver possession of the Building to City with the Leasehold Improvements Substantially Completed by the Cancellation Date (subject to Tenant Delay and Unavoidable Delay), this Lease will terminate and neither party will have any further liability to the other; provided that Landlord will reimburse City for all of City's actual out-of-pocket costs of the Leasehold Improvements in accordance with the Work Letter, promptly following Landlord's receipt of reasonable evidence of such costs (such as copies of paid invoices, receipts, etc.).

3.4 Extension Option

Landlord grants City the right to extend the Term (the "**Extension Option**") for the additional term specified in the Basic Lease Information (the "**Extended Term**"). The Extended Term will be on all of the terms and conditions contained in this Lease, except that (i) Base Rent will be determined pursuant to Section 4.3 below, (ii) there will be no Base Rent abatement period at the beginning of the Extended Term, (iii) City will accept the Building in its as-is condition, without Landlord providing or paying for any Leasehold Improvements or other alterations, and (iv) there will be no further options to extend the Term. City may exercise the Extension Option, if at all, by giving written notice (the "**Extension Notice**") to Landlord no later than fifteen (15) months and no earlier than eighteen (18) months before expiration of the Term; provided, however, that notwithstanding anything to the contrary herein, (a) City may not exercise the Extension Option while an uncured material Event of Default exists, and (b) Landlord may void City's exercise of the Extension Option by giving written notice thereof to City of an uncured material Event of Default within fifteen (15) days after Landlord's written demand for City to cure the Event of Default. If City extends the Term as provided in this Section, then the word "Term" will mean and include the Extended Term.

4. RENT

4.1 Base Rent

Beginning on the Commencement Date, City will pay to Landlord the annual Base Rent specified in the Basic Lease Information (the "**Base Rent**"). The Base Rent is payable in equal monthly payments, commencing on the Commencement Date, and thereafter on or before the first day of each calendar month during the Term, without any deductions or setoff except as otherwise provided in this Lease, provided that Landlord will give City a written invoice for each monthly installment of Base Rent (which may be given via email to Jeff.Suess@sfgov.org or another person designated) at least thirty (30) days in advance of the due date thereof. Rent will be paid to the address specified for Landlord in the Basic Lease Information, or other place or pursuant to such other instructions, including electronic payment instructions, as Landlord may designate in writing on not less than thirty (30) days' advance notice. 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.

Notwithstanding the foregoing, Tenant will not be obligated to pay Base Rent for the month of July of the first six (6) years of the initial Term (the “**Abated Base Rent**”); provided, however, that Landlord may elect, by written notice to Tenant at any time, to purchase (and to eliminate) the Abated Base Rent and to cause Tenant to be obligated to pay the full amount of the Base Rent which Tenant would be required to pay hereunder without regard to the Abated Base Rent, by paying to Tenant an amount equal to the Abated Base Rent Purchase Price with respect thereto. As used herein, “**Abated Base Rent Purchase Price**” will mean the present value of the Abated Base Rent then remaining as of the date of payment (by Landlord to Tenant) of the Abated Base Rent Purchase Price, utilizing a discount rate equal to four and one-half percent (4.5%) per annum.

4.2 Adjustments in Base Rent

On each Adjustment Date (as defined in the Basic Lease Information), the Base Rent for the following twelve-month period will be adjusted as indicated in the table in the Basic Lease Information.

4.3 Determination of Base Rent for the Extended Term

(a) The Base Rent for the Extended Term will equal the 98% of the “**prevailing market rate**”, which as used in this Section will mean the prevailing market base rent for space of comparable size and location to the Building being offered for rent on an arms-length, non-sublease basis for a term comparable to the Extension Term in buildings similar in age, location, and quality to the Building (“**Comparable Space**”) situated within the South of Market area, which is the area of San Francisco, California, bounded by Mission Street to the north, King Street to the south, The Embarcadero to the east, and Eighth Street to the west (“**Reference Area**”); provided, however, in no event will the Base Rent be reduced below 103% of the Base Rent for the twelve (12)-month period before the Extended Term (equivalent to \$65.90 per square foot). The prevailing market rate will be projected to the date of commencement of the Extended Term, and the determination thereof will take into account all relevant factors, including but not limited to (i) any additional rent and all other payments and escalations payable under this Lease and under the leases of Comparable Space, (ii) floor location and size of the premises covered by leases of the Comparable Space, (iii) the duration of the 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 fifteen (15) days after City’s exercise of the Extension Option, Landlord will notify City of Landlord’s determination of the prevailing market rate for the Building. If City disputes Landlord’s determination of the prevailing market rate, City will notify Landlord within ten (10) days after Landlord’s notice to City of the prevailing market rate and the dispute will be resolved as follows:

(i) During the twenty (20)-day period after City notifies Landlord of the dispute (the “**Consultation Period**”), 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 during the Consultation 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 Consultation Period, each party will cause its appraiser to prepare and complete an appraisal report determining the prevailing market rate and submit the report to Landlord and City.

(iii) If only one appraisal report is submitted within that thirty (30)-day period, then the prevailing market rate determined in that appraisal report will be used to establish the Base Rent for the Extended Term. If both appraisal reports are submitted within the thirty (30)-day period, and 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, within ten (10) days after completion of the two appraisal reports, select a third appraiser, and such third appraiser, acting alone, will within ten (10) days after his or her selection, determine which of the first two (2) appraisal reports specified a value closest to the actual prevailing market rate, as defined in Section 4.3(a) above. The prevailing market rate determined by the foregoing appraisal procedure will be final and binding on the parties.

(iv) 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 by giving written notice to Landlord no later than ten (10) days after the prevailing market rate is determined pursuant to clause (iii) above.

(v) All appraisers must be "MAI" designated members of the Appraisal Institute with not less than ten (10) years' recent experience appraising leases of commercial properties similar to the Building 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 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 *Intentionally omitted*

4.6 Definitions

"**City'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. By advance written notice to City, Landlord may change the Expense Year to any other twelve (12) consecutive month period and, in the event of a change, City's Percentage Share of Operating Costs will be equitably adjusted for the Expense Years involved in the change.

"**Operating Costs**" means the total commercially reasonable costs and expenses actually paid or incurred by Landlord in connection with the management, operation, maintenance, and repair of the Building, including but not limited to: (1) the cost of air conditioning, electricity, water, sewer, heating, mechanical, telephone, ventilating, and elevator systems and all other utilities, (2) the cost of general maintenance (including but not limited to maintenance of the Building's roof, façade, structure and other exterior components), cleaning, pest control, window washing, trash removal and service contracts, including all supplies, tools, and equipment for that maintenance, cleaning, and service, (3) the costs incurred by Landlord for all insurance and deductibles pursuant to Section 17.2 (Landlord's Insurance), (4) wages, salaries, payroll taxes, and other labor costs and employee benefits relating to Landlord's employees or its Agents (defined in Section 24.5 (Parties and Their Agents, Approvals) below) engaged in the operation,

repair, or maintenance, of the Building, allocated in proportion to the percentage of that person's working time actually spent working in connection with the Building, (5) reasonable management fees, (6) fees, charges, and other costs of all independent contractors engaged by Landlord, allocated in proportion to the percentage of that person's working time actually spent working in connection with the Building, (7) accounting and legal expenses, (8) sales, use and excise taxes on goods and services purchased by Landlord in connection with the operation, maintenance or repair of the Property and Building, (9) costs of capital repairs, capital improvements, and equipment (A) required by applicable Laws enacted on or after the date of this Lease amortized over the useful life of the improvement and/or equipment, together with interest at the actual interest rate incurred by Landlord in connection those capital repairs, improvements, or equipment, unless caused by Landlord's deliberate or negligent violation of applicable Laws, and except to the extent the improvements are attributable to or are made for the primary benefit of a tenant or occupant other than City, or (B) acquired to cause, in Landlord's good faith judgment, an immediate (i.e., commencing within the first year after completion of the repairs or improvements or installation of equipment) reduction in other Operating Costs, amortized over the useful life of the repairs, improvements, or equipment at an annual rate reasonably calculated to equal the amount of Operating Costs to be saved in each calendar year throughout the Term (as determined at the time Landlord elected to proceed with the capital repair or improvement or acquisition of the capital equipment to reduce Operating Costs), together with interest at the actual interest rate incurred by Landlord, and (10) costs for painting the exterior of the Building (no more than once every three years and not in the final year of the Term or Extended Term) and maintaining the sidewalks, and other areas of the Property.

“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 air conditioning systems, elevators, or other equipment ordinarily considered to be of a capital nature, except as expressly permitted under clause (9) 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 and fifty thousand dollars (\$150,000) 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 as interpreted and enforced with respect to the Building 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, except to the extent of new requirements, amendments or interpretations first effective after the date of this Lease;

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

(xviii) 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;

(xix) 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;

(xx) 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 sub-metered and pays Landlord directly (and if any tenant in the Building contracts directly for electric power service or is separately metered or sub-metered 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;

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

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

(xxiii) Real Estate Taxes and any tax penalties incurred as a result of Landlord's negligence or Landlord's inability or unwillingness to make tax payments when due;

(xxiv) Fines, costs, penalties, or interest resulting from the negligence or willful misconduct of Landlord or its Agents;

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

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

(xxvii) 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 in the Building or in the Building Systems;

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

(xxix) Costs arising from claims, disputes, or potential disputes (including tax disputes where the tenants of the Building would receive benefits if Landlord prevails, except as expressly provided in this subsection (xxix) below), 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, but the legal and other costs of tax disputes that result in a savings in Real Estate Taxes may be included in Operating Costs as follows:

(A) the costs of such tax disputes included in Operating Costs hereunder may not exceed the amount of the Real Estate Tax savings, and

(B) the amount of such costs included in Operating Costs in any Expense Year may not exceed the amount of the savings in Real Estate Taxes in the correlating Tax Year, but Landlord may carry over any excess costs until Landlord has been reimbursed through Operating Costs for all of the costs of such tax dispute that may be reimbursed under this subsection (xxix);

(xxx) 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;

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

(xxxii) 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;

(xxxiii) 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

(xxxiv) 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.

"Real Estate Taxes" means all taxes, assessments, and charges levied assessed or imposed on or with respect to the Building or the Property, or Landlord's interest in the Building or the Property, general or special, ordinary or extraordinary, and foreseeable or unforeseeable. Real Estate Taxes include all general 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. Real Estate Taxes will include any increase in any of the foregoing due to reassessment after the construction of improvements to the Building or the Property or any change in ownership or other transfer of any of Landlord's interest in the Building or the Property or resulting from any other reassessment of the Building or Property, except as expressly provided in Section 4.7 below. Real Estate Taxes expressly do not include: **(1)** franchise, transfer, inheritance, gross receipts, or capital stock taxes, or income taxes of Landlord from all sources unless, due to a change in the method of taxation, any of those taxes are levied or assessed against Landlord as a substitute for, or as an addition to, in whole or in part, any other tax that would otherwise constitute a Real Estate Tax, **(2)** any penalties, fines, interest, or charges attributable to the late payment of any taxes, except to the extent attributable to City's failure to pay its portion of Real Estate Taxes, **(3)** any personal property taxes payable by City or by any other tenant or occupant of the Building, or **(4)** any Commercial Rent Tax for Childcare and Early Education (Prop. C) to the extent that 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, City's Percentage Share of Real Estate Taxes will be equitably adjusted for the Tax Year during the change.

4.7 Reassessment Protection

Notwithstanding anything to the contrary contained in this Lease, in the event that any change in ownership or other transfer of any of Landlord's interest in the Building or the Property (an "**Adjustment Event**") occurs during the first four (4) Lease Years (the "**Protection Period**"), and if in connection therewith, the Building or the Property is reassessed for real estate tax purposes by the appropriate governmental authority under Article XIII A of the Constitution of the State of California (the "**Reassessment**"), then the terms of this Section 4.7 will apply.

(a) **Definitions.**

(1) **Excess Real Estate Taxes.** For purposes of this Section 4.7, the term "**Excess Real Estate Taxes**" means the amount by which the Real Estate Taxes payable under this Lease without regard to this Section 4.7 following an Adjustment Event exceeds the Real Estate Taxes that would have been payable if the Adjustment Event had not occurred.

(2) **City's Protected Tax Share.** For purposes of this Section 4.7, the term "**City's Protected Tax Share**" means Excess Real Property Taxes per rentable square foot of the Premises, calculated for each Lease Year and prorated on the basis of a 365-day year for any partial year.

(3) **Lease Year.** For purposes of this Section 4.7, the term "**Lease Year**" means each consecutive twelve (12)-month period during the Term, provided that (i) the first Lease Year will start on the Commencement Date, and if the Commencement Date is not the first day of a month, then the first Lease Year will end on the last day of the month in which the first anniversary of the Commencement Date occurs, and (ii) the last Lease Year will end on the Expiration Date, unless this Lease is sooner terminated.

(b) **Protection Due To Adjustment Event.** In the event that an Adjustment Event occurs:

(1) With respect to a Reassessment occurring in the 1st Lease Year: Tenant will not be obligated to pay any portion of Tenant's Protected Tax Share during the 1st Lease Year; Tenant will not be obligated to pay 75% of Tenant's Protected Tax Share during the 2nd Lease Year; Tenant will not be obligated to pay 50% of Tenant's Protected Tax Share during the 3rd Lease Year; and Tenant will not be obligated to pay 25% of Tenant's Protected Tax Share during the 4th Lease Year.

(2) With respect to a Reassessment occurring in the 2nd Lease Year: Tenant will not be obligated to pay 75% of Tenant's Protected Tax Share during the 2nd Lease Year; Tenant will not be obligated to pay 50% of Tenant's Protected Tax Share during the 3rd Lease Year; and Tenant will not be obligated to pay 25% of Tenant's Protected Tax Share during the 4th Lease Year.

(3) With respect to a Reassessment occurring in the 3rd Lease Year: Tenant will not be obligated to 50% of Tenant's Protected Tax Share during the 3rd Lease Year; and Tenant will not be obligated to pay 25% of Tenant's Protected Tax Share during the 4th Lease Year.

(4) With respect to a Reassessment occurring in the 4th Lease Year, Tenant will not be obligated to pay 25% of Tenant's Protected Tax Share during the 4th Lease Year.

After the Protection Period, this Section 4.7 will no longer apply and the amount of Real Estate Taxes payable by Tenant under this Lease will be calculated without regard hereto.

(c) **Landlord's Right to Purchase Tenant's Protected Share.** Landlord may elect, by notice to Tenant in conjunction with an Adjustment Event, to purchase (and to eliminate) the remaining Tenant's Protected Tax Share and to cause Tenant to be obligated to pay the full amount of Real Estate Taxes payable under this Lease without regard to this Section 4.7, by paying to Tenant an amount equal to the Protected Share Purchase Price with respect thereto. As used herein, "**Protected Share Purchase Price**" means the present value of the Tenant's Protected Tax Share then remaining as of the date of payment (by Landlord to Tenant) of the Protected Share Purchase Price, utilizing a discount rate equal to four and one-half percent (4.5%) per annum.

4.8 *Intentionally omitted*

4.9 *Intentionally omitted*

4.10 *Intentionally omitted*

4.11 Calculation and Payment of Operating Costs

(a) The computation 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 at the Building an amount that is more than 100% of the Operating Costs actually paid by Landlord in connection with the Building.

(b) Commencing on the Commencement Date, City will pay to Landlord each month, as Additional Charges, one twelfth (1/12) of City's Percentage Share of the Operating Costs for that Expense Year, as provided in this Section. City will make the payments together with its payments of Base Rent, in advance, in an amount estimated by Landlord in reasonable detail in a writing delivered to City at least four (4) months before the first payment of City's Percentage Share of Operating Costs is due. Landlord will update its estimates of Operating Costs each Expense Year, but no revised estimates will be retroactive. Landlord will use commercially reasonable efforts to provide any revised estimates to City at least four (4) months before the commencement of the Expense Year, but in any event the prior year's estimate will continue to be effective until updated. With reasonable promptness not to exceed one hundred twenty (120) days after the expiration of each Expense Year, Landlord will furnish City with a statement ("**Landlord's Expense Statement**") setting forth in reasonable detail the actual Operating Costs for the Expense Year and City's Percentage Share. If City's Percentage Share of the actual Operating Costs for the Expense Year exceeds the estimated Operating Costs paid by City for that Expense Year, City will pay to Landlord (whether or not this Lease has terminated) the difference between the amount of estimated Operating Costs paid by City and City's Percentage Share of the actual Operating Costs within thirty (30) days after the receipt of Landlord's Expense Statement. If the total amount paid by City for its Percentage Share of Operating Costs exceeds City's Operating Costs Share of the actual Operating Costs for the Expense Year, the excess will be credited against the next installments of City's Percentage Share of Operating Costs or refunded to City, at City's option. In no event may Landlord be

reimbursed for more than one hundred percent (100%) of the Operating Costs in any Expense Year.

4.12 Calculation and Payment of Percentage Share of Real Estate Taxes

Commencing on the Commencement Date, City will pay Landlord each month, as Additional Charges, one twelfth (1/12) of City's Percentage Share of the Real Estate Taxes for each Tax Year, as provided in this Section. City will make those payments together with its payments of Base Rent, in advance, in an amount estimated by Landlord in reasonable detail in a writing delivered to City. Landlord will use commercially reasonable efforts to provide any revised estimates to City at least four (4) months before the commencement of the Tax Year, but in any event the prior year's estimate will continue to be effective until Landlord provides the revised estimates. With reasonable promptness not to exceed thirty (30) days after Landlord has received the tax bills for any Tax Year (or any updated tax bills), or in conjunction with delivery of Landlord's Expense Statement, Landlord will furnish City with a statement ("**Landlord's Tax Statement**") setting forth the actual amount of Real Property Taxes for the Tax Year and City's Percentage Share. If City's Percentage Share of the actual Real Estate Taxes for the Tax Year exceeds the estimated Real Estate Taxes paid by City for that Tax Year, City will pay to Landlord (whether or not this Lease has terminated) City's Percentage Share of the actual Real Estate Taxes within thirty (30) days after the receipt of Landlord's Tax Statement. If the total amount of estimated Real Estate Taxes paid by City for the Tax Year exceeds City's Percentage Share of the actual Real Estate Taxes, the excess will be credited against the next installments of City's Percentage Share of Real Estate Taxes, or at City's option, the excess will be refunded to City. In no event may Landlord be reimbursed for more than one hundred percent (100%) of the Real Estate Taxes in any Tax Year.

4.13 Proration

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

4.14 Audits

City will have the right, by giving fifteen (15) business days' notice to Landlord (the "**Audit Notice**") no later than one (1) year after receipt of Landlord's Expense Statement for a particular Expense Year (or Landlord's Tax Statement for a particular Tax Year, as applicable), to commence an audit of the Operating Costs and taxes for such Expense Year (or the Real Estate Taxes for such Tax Year, as applicable), subject to and upon the terms and conditions of this Section 4.14. City must deliver the Audit Notice with respect to a Landlord's Expense Statement or Landlord's Tax Statement within eighteen (18) months after receipt thereof; otherwise City will be deemed to have waived any objection and will have no right to audit the books and records related to the Expense Year or Tax Year (as applicable) to which such statements pertain. Any audit will be conducted by certified public accountants, reasonably approved by Landlord or by City's employees; provided that the auditor will not be compensated on a contingency fee basis. City will use commercially reasonable efforts to ensure that any audit conducted hereunder, once commenced, is diligently prosecuted to completion. Landlord will provide its books and records for review at Landlord's headquarters or in digital format. If Landlord disagrees with the results of City's audit and the parties cannot otherwise agree, then Landlord's and Tenant's auditor will together select a Neutral Auditor to conduct a review of such books and records, and the determination reached by such Neutral Auditor will be final and conclusive. If the final conclusive audit provides that the amounts paid by City to Landlord (i) exceed the amounts to which Landlord is entitled under this Lease, then Landlord will within

thirty (30) days after the completion of the audit (or final determination by the Neutral Auditor, as applicable) refund the amount of the overpayment to City (or, at City's option, credit the amount of the overpayment against Base Rent next due), or (ii) are less than the amounts to which Landlord is entitled under this Lease, then City will pay the deficiency as Additional Charges within thirty (30) days of the final determination. City will pay the cost of its audit, provided that if any such audit discloses any discrepancies that result in a reduction of five percent (5%) of Operating Costs, Real Estate Taxes or other amounts, as applicable or more for any year, then Landlord will pay the actual costs of the audit. Each party will be responsible for its own review costs. A "**Neutral Auditor**" is a qualified real estate auditor of similar qualifications as City's and Landlord's auditors who has not worked with Landlord on this Lease or otherwise and who has not worked with City on this Lease or the Property, but is qualified as an approved vendor by City. Landlord and City will each pay one-half of the cost of the Neutral Auditor.

4.15 Records

Landlord will maintain at its main office in a safe, complete, and organized manner all of its records related to this Lease, Real Estate Taxes, Operating Costs and any other charges paid by City to Landlord, for at least four (4) years after the end of the Tax Year or Expense Year to which the Real Estate Taxes, Operating Costs or other charges, as applicable, pertain. Landlord will maintain the records on a current basis and in sufficient detail to facilitate adequate review and audit. All books and records will be available for inspection, copying, and audit by City and its representatives, at City's expense, subject to the provisions of Section 4.14 (Audits). Landlord will promptly notify City if the records described in this Section are moved to another location and will provide the updated address.

4.16 Payments by City

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

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

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

4.18 Additional Services

City may request that Landlord provide or arrange for additional services for the Building, which Landlord may provide or arrange in its reasonable discretion. If Landlord elects to provide the requested additional services, then City will pay Landlord as Additional Charges

the cost of those services plus a three percent (3%) administrative fee, but Landlord will not contract for or provide such services, or incur costs therefor, without City's prior written approval of the cost of the additional services (which may be the known costs, or an hourly rate and maximum number of hours, or a cost estimate with a not-to-exceed maximum amount) in writing. City will pay for the cost of the additional services and the administrative fee within thirty (30) days after receipt of an invoice; provided, however, that City may elect to provide any deposit or other prepayment that City determines is appropriate given the nature of the requested services. Any additional terms for the additional services will be memorialized by a written agreement, which, upon execution by Landlord and City, will be considered a part of this Lease.

5. USE

5.1 Permitted Use

City may use the Building for the Permitted Use specified in the Basic Lease Information, and for no other use without Landlord's prior written consent, which may not be unreasonably withheld, conditioned, or delayed. City will not cause or permit any nuisance or waste in, on or about the Building or Property. City acknowledges and agrees that, except as expressly set forth in this Lease, neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the condition of all or any portion of the Building or the Property, and/or the suitability of the Building or Property for the Permitted Use. City will obtain all required governmental approvals to conduct the Permitted Use at the Property.

5.2 *Intentionally omitted*

5.3 Interference with Access

Landlord will provide to City uninterrupted (to the maximum extent possible and subject to the terms of this Lease) access to the Building twenty-four (24) hours per day, seven (7) days per week, including during any power outages affecting any portion of the Building; but Landlord may, after consultation with City's Administrator (or reasonably endeavoring to consult with the Administrator for an urgent situation), interrupt City's access to the Building if there is an immediate threat that will render any portion of the Building unsafe for human occupancy. If City's use of any of the Building or access to the Building is interrupted because any portion of the Building is unsafe for human occupancy due to Landlord's failure to comply with its obligations under this Lease, then Tenant will give written notice thereof to Landlord specifying such failure to perform by Landlord, and Landlord will immediately undertake all necessary steps to correct the condition. If Landlord fails to cure such failure within five (5) business days following receipt of the written notice from City and the condition at issue continues to materially impair City's ability to carry on its business in the Building, then (a) Rent will be abated in the proportion that the square footage of the portion of the Building that City is prevented from using, and does not use, bears to the total square footage of the Building, for the period beginning five (5) business days after City's written notice until the earlier of the date Landlord cures such failure to perform or the date City recommences the use of such portion of the Building, or (b) City may utilize the provisions of Section 15.3(b) below to remedy such failure. If the condition at issue continues to materially impair City's ability to carry on its business in the Building for sixty (60) consecutive days or more after City's written notice informing Landlord that City's use is materially impaired, City may send written notice to Landlord stating that City will terminate this Lease, and this Lease will terminate unless within two (2) business days after Landlord receives City's notice, Landlord supplies City with evidence reasonably satisfactory to City that City's normal and safe use will be restored within ninety (90) days after the date City's use was materially impaired, and City's use is actually restored within that 90-day period. If City's use is not actually restored within that 90-day period, then City may terminate this Lease immediately upon written notice to Landlord. Except for the termination right expressly set forth herein, City hereby waives the provisions of

California Civil Code Section 1932(1) or any other applicable existing or future law permitting the termination of this Lease due to an access interruption. Notwithstanding the foregoing, nothing in this Section will limit City's rights with respect to any disruption due to casualty under Section 12 (Damage and Destruction).

6. LEASEHOLD IMPROVEMENTS

6.1 Landlord's Obligation to Construct Improvements

Landlord, through Centric General Contractors or another general contractor reasonably approved by City, will construct the Leasehold Improvements, as such term is defined in the Work Letter attached as Exhibit D.

6.2 Construction of Improvements that Disturb or Remove Exterior Paint

Landlord, on behalf of itself and its successors, assigns, and Agents, will comply with all requirements of the San Francisco Building Code Chapter 34 and all other applicable local, state, and federal laws, including the California and United States Occupational and Health Safety Acts and their implementing regulations, when the work or alteration disturbs or removes exterior or interior lead-based or "presumed" lead-based paint (as defined below) from the Building during the Term of this Lease. Landlord and its Agents must give to City three (3) business days' prior written notice of any disturbance or removal by Landlord or its Agents of exterior or interior lead-based or presumed lead-based paint during the Term. Landlord acknowledges that the required notification to the Department of Building Inspection regarding the disturbance or removal of exterior lead-based paint under San Francisco Building Code Chapter 34 does not constitute notification to City as tenant under this Lease and similarly that notice under this Lease does not constitute notice under San Francisco Building Code Chapter 34. Further, Landlord and its Agents, when disturbing or removing exterior or interior lead-based or presumed lead-based paint from the Building during the Term, will not use or cause to be used any of the following methods: (a) acetylene or propane burning and torching; (b) scraping, sanding, or grinding without containment barriers or a High Efficiency Particulate Air filter ("HEPA") local vacuum exhaust tool; (c) hydroblasting or high-pressure wash without containment barriers; (d) abrasive blasting or sandblasting without containment barriers or a HEPA vacuum exhaust tool; and (e) heat guns operating above 1,100 degrees Fahrenheit. Landlord will comply with the requirements of California Code of Regulations Title 17, if and to the extent applicable, when taking measures that are designed to reduce or eliminate lead hazards with respect to the Building during the Term. Under this Section, paint on the exterior or interior of buildings built before January 1, 1979 is presumed to be lead-based paint unless a lead-based paint test, as defined by San Francisco Building Code Chapter 34, demonstrates an absence of lead-based paint on the interior or exterior surfaces of the buildings. Under this Section, lead-based paint is "disturbed or removed" if the work or alteration involves any action that creates friction, pressure, heat, or a chemical reaction on any lead-based or presumed lead-based paint on a surface so as to abrade, loosen, penetrate, cut through, or eliminate paint from that surface.

7. ALTERATIONS

7.1 Alterations by City

City may not make or permit any alterations, installations, additions, or improvements (collectively, "**Alterations**") to the Building without first obtaining Landlord's written consent, which Landlord will not unreasonably withhold, condition, or delay. Installation of furnishings, fixtures, equipment, or decorative improvements to the interior of the Building that do not affect the Building Systems or structure and are not visible from the exterior of the Building, and which do not cost in excess of \$75,000 per project, and the repainting and recarpeting of the interior of the Building (collectively, "**Cosmetic Work**") do not require Landlord's consent; provided that

City will give Landlord at least ten (10) days prior written notice of any Cosmetic Work performed by third-party contractors, suppliers or vendors which costs in excess of \$10,000. Notwithstanding anything to the contrary herein, in no event will City make any rooftop penetrations or otherwise make any improvements to the roof of the Building or install or place any items or equipment thereon, without first obtaining the consent of Landlord which may be withheld in Landlord's sole discretion. Any Alterations permitted under this Lease will be made at City's cost in compliance with applicable Laws (as defined in Section 10.1 (Landlord's Compliance with Laws)), pursuant to a valid building permit and in a good and workmanlike manner. Landlord may require that City use contractors reasonably preapproved by Landlord with respect to Alterations affecting the Building structure or Building Systems. If, as a result of Alterations by or on behalf of City, modifications or improvements are required by Law to be made to the Building or other portions of the Property, City will be responsible for making such modifications or improvements, at its cost and expense. Without cost to itself, Landlord will reasonably cooperate with City in securing building and other permits and authorizations needed for any permitted Alterations. Landlord will not be entitled to any construction or other administrative fee in connection with any Alterations, except as follows: Landlord will receive an administrative fee equal to four percent (4%) of the cost of any Alterations consented to by Landlord, and City will reimburse Landlord for the reasonable and actual fees and charges paid to third party architects, engineers, and other consultants for review of the proposed Alterations and related plans and specifications, up to a maximum of five percent (5%) of the costs of the Alterations, within thirty (30) days of demand. Upon completion with the subject Alterations, City will provide Landlord with copies of the "as built" drawings therefor. City will not be required to remove any Alterations on the expiration or sooner termination of this Lease unless Landlord notifies City in writing at the time Landlord approves the Alterations that they must be removed. City is not required to remove any improvements not requiring Landlord's consent.

7.2 Title to Improvements

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

7.3 City's Personal Property

All furniture, furnishings, equipment, trade fixtures, and articles of movable personal property installed in the Building by or for City and that can be removed without structural damage to the Building (collectively, "**City's Personal Property**") are and will remain City's property. If City requests, Landlord may assist City with ordering and installing City's Personal Property and City will reimburse Landlord for all fees, costs, and expenses incurred by Landlord in connection with such work requested by City, within thirty (30) days after receipt of an invoice, together with an administrative fee equal to four percent (4%) of the amount incurred by Landlord; provided, however, that City may elect to provide any deposit or other expense required at the time of ordering City's Personal Property. Although Landlord may assist with ordering and installing 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. At any time during the Term, City may remove any of City's Personal Property, and City will repair any damage to the Building resulting from that removal. On the expiration or earlier termination of this Lease, City must remove City's Personal Property from the Building in accordance with Section 20 (Surrender of Building). Landlord acknowledges that some of City's Personal Property may be financed by an equipment lease financing, otherwise subjected to a security interest, or owned by an equipment company and leased to City ("**Secured Personal Property**"). Landlord recognizes the rights of any supplier, lessor, or lender (collectively, a "**Supplier**") who has an interest in any items of Secured Personal Property

to enter the Building and remove that Secured Personal Property at any time during the Term, provided that such Supplier will have entered into a commercially reasonable access agreement with Landlord providing for indemnification of Landlord, insurance, authorization, restoration and repair and other reasonable terms. City agrees that Landlord may allow any Supplier access upon written demand from the Supplier, without verification whether or not removal is appropriate, and City will hold Landlord harmless in connection therewith and agrees that Landlord will not be liable for any error or removal of City's Personal Property.

7.4 Alteration by Landlord

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

8. REPAIRS AND MAINTENANCE

8.1 Landlord's Repairs

Subject to Tenant's obligations under Section 8.2 below, at its cost (subject to reimbursement as an Operating Cost to the extent permitted under this Lease), Landlord will repair and maintain the exterior and structural portions of the Building in good condition and repair, including the roof, foundation, bearing and exterior walls, windows, doors, door frames, demising walls, and subflooring, and the heating, ventilation, air conditioning, plumbing, electrical, fire protection, life safety, and mechanical and electrical systems of the Building (collectively, the "**Building Systems**"), and provide exterior graffiti removal with reasonable frequency.

8.2 City's Repairs

Subject to any construction warranties or guaranties received in connection with Landlord's completion of the Leasehold Improvements, and Landlord's repair and maintenance obligations under this Lease, City will repair and maintain at its cost the interior portions of the Building and will keep them in good condition and proper working order and in a safe and sanitary condition throughout the Term, except for ordinary wear and tear and damage by casualty or condemnation. City will make any required repairs and replacements to the interior of the Building as necessary to keep the interior of the Building in good condition and repair. **(a)** at City's cost, **(b)** by contractors or mechanics selected by City and reasonably approved by Landlord, **(c)** so that the interior portions of the Building will be at least substantially equal in quality, value, and utility to the original work or installation before the damage, **(d)** in a manner and using equipment and materials that will not materially interfere with or impair the operations, use, or occupation of the Building or the Building Systems, and **(e)** in compliance with all applicable Laws, including any applicable contracting requirements under City's Charter and Administrative Code. At all times during the Term, promptly after City's reasonable notice, Landlord will provide City and its Agents with access to those portions of the Building that are necessary to maintain or repair the telecommunications and data and computer cabling facilities and equipment installed by City.

City, at its expense, will (i) use Mold Prevention Practices; and (ii) promptly notify Landlord if it observes, suspects, has reason to believe that any Mold Condition exists at the Building. "**Mold Prevention Practices**" means good housekeeping practices. "**Mold Conditions**" means mold and any other conditions that reasonably can be expected to cause or result from mold or fungus, including observed or suspected instances of water damage, condensation, seepage, leaks, or any other water penetration (from any source, internal or external), mold growth, mildew, and complaints of respiratory ailments or eye irritation by City's

Agents and Invitees. City will allow Landlord to evaluate and make recommendations. Landlord will not be liable for any personal injury or damages to property caused by or associated with the growth of or occurrence of mold or mildew on or in the Building that are preventable through City's use of Mold Prevention Practices.

8.3 Liens

City will keep the Building and Property free from liens arising out of any work performed, material furnished, or obligations incurred by City, and, in case of any such lien attaching, Landlord will allow City a reasonable opportunity to contest such lien or take other appropriate action to remove or bond over the lien for a period of not less than thirty (30) days. Notwithstanding anything to the contrary set forth in this Lease, in the event that such lien is not released and removed (by bond or otherwise) on or before the date occurring thirty (30) days after notice of such lien is delivered by Landlord to City, Landlord, at its sole option, may immediately take all action necessary to release and remove such lien, without any duty to investigate the validity thereof, and all sums, costs and expenses, including reasonable attorneys' fees and costs, incurred by Landlord in connection with such lien will be deemed Additional Charges under this Lease and will be due and payable by City within sixty (60) days. Nothing herein will be deemed to mean that City is prevented from contesting a particular lien, as long as City first "bonds over" such lien, at City's cost. Landlord may post at the Building any notices permitted or required by Laws or that are needed for the protection of Landlord or the Building, from mechanics' and material suppliers' liens. City will give Landlord at least ten (10) days' prior written notice of commencement of any repair or construction by City in the Building.

9. UTILITIES AND SERVICES

9.1 Landlord's Provision of Utilities

As an Operating Cost, Landlord will furnish the following utilities and services to the Building: **(a)** heating, air conditioning, and ventilation in amounts reasonably required for City's comfortable use and occupancy of the Building, 24 hours per day, seven days per week; **(b)** electric current in amounts required for normal lighting and for the operation of personal computers and other normal office machines and equipment, on a twenty-four (24) hours-a-day, three hundred sixty-five (365) days-a-year basis ("**Daily Basis**"); **(c)** elevator service on a Daily Basis; and **(d)** water for lavatory, kitchen, and drinking purposes on a Daily Basis. Without limiting Landlord's obligations under this Section, as an Operating Cost, Landlord will furnish all utilities and services required under this Lease in a manner consistent with utilities and services normally provided in other buildings similar to the Building in the San Francisco South of Market District.

9.2 Safety and Security

City acknowledges that City will be solely responsible for any safety and security devices, and in no event will Landlord be responsible for theft or other criminal acts, or the safety of persons or property and City expressly assumes the risk that any safety device, service, or program may not be effective or may malfunction or be circumvented. Any security system installed by City in the Building will be subject to Landlord's prior written approval of the type of system and its installation, and Landlord reserves the right to require City to remove such system and related equipment from the Building upon the expiration or earlier termination of this Lease.

9.3 Conservation

Landlord may voluntarily establish reasonable measures to conserve energy and water, including efficient lighting forms, so long as these measures do not unreasonably interfere with City's use of the Building. In the event any governmental authority having jurisdiction over the

Property promulgates or revises any Law or building, fire or other code or imposes mandatory controls on Landlord or the Property relating to the use or conservation of energy or utilities or the reduction of automobile or other emissions (collectively, “**Controls**”), or in the event Landlord is required to make alterations to the Property or any portion thereof in order to comply with such mandatory Controls, Landlord may comply with such Controls or make such alterations, and the foregoing will not constitute a constructive eviction of City or violation of the terms of this Lease.

9.4 Disruption in Essential Utilities or Services

If any failure, stoppage, or interruption of any utilities or services required to be furnished by Landlord occurs, upon Landlord’s actual knowledge thereof, Landlord will promptly notify City of the failure, stoppage, or interruption; diligently attempt to restore service as promptly as possible; and keep City apprised of its efforts. If Landlord fails to perform the obligations required of Landlord under this Lease, resulting in the failure of the Building’s sanitary, electrical, heating, air conditioning, water, elevator, fire protection or life safety for which Landlord is responsible under this Lease (collectively, “**Essential Services**”) and such failure of Landlord materially impairs City’s ability to carry on its business in the Building for five (5) or more consecutive business days following City’s written notice to Landlord, then (i) Rent will be abated in the proportion that the square footage of the portion of the Building that City is prevented from using, and does not use, bears to the total square footage of the Building, for the period beginning on the sixth (6th) business day after City’s written notice until the earlier of the date such Essential Services have been restored so that the lack of any remaining Essential Services no longer materially impairs City’s ability to carry on its business in the Building or the date City recommences the use of such portion of the Building, or (ii) City may utilize the provisions of Section 15.3(b) below to remedy such failure. Landlord will use commercially reasonable efforts to restore disrupted Essential Services as soon as possible. If the condition at issue continues to materially impair City’s ability to carry on its business in the Building for sixty (60) consecutive days or more after City’s written notice informing Landlord that City’s use is materially impaired, City may send written notice to Landlord stating that City will terminate this Lease, and this Lease will terminate unless within two (2) business days after Landlord receives City’s notice, Landlord supplies City with evidence reasonably satisfactory to City that City’s normal and safe use will be restored within ninety (90) days after the date City’s use was materially impaired, and City’s use is actually restored within that 90-day period. If City’s use is not actually restored within that 90-day period, then City may terminate this Lease immediately upon written notice to Landlord. City will not be entitled to any abatement of Rent or right to self-help under Section 15.3(b) below, nor will City have the right to terminate this Lease as provided herein, to the extent that Landlord’s inability to supply Essential Services to City results from the negligent acts or omissions of City or its Agents or Invitees. Except for the termination right expressly set forth herein, City hereby waives the provisions of California Civil Code Section 1932(1) or any other applicable existing or future law permitting the termination of this Lease due to a service or utility interruption or failure.

10. COMPLIANCE WITH LAWS; BUILDING CONDITION

10.1 Landlord’s Compliance with Laws; Building Condition; Indemnity

Subject to City’s obligation under Section 8.2 (City’s Repairs), Landlord will at all times during the Term maintain, at its cost (subject to reimbursement as an Operating Cost to the extent permitted by this Lease), the Property and the Building Systems in compliance with applicable present or future federal, state, local, and administrative laws, rules, regulations, orders, and requirements (collectively, “**Laws**”). Landlord represents and warrants to City as of the date of this Lease, and covenants with City, as follows; to Landlord’s actual knowledge: (a) the physical structure, fixtures, and permanent improvements of the Building (including the Leasehold Improvements) and all portions of the Property and the Building (including the

Building entrances, restrooms, elevators, lobbies, and drinking fountains) are now, or as of the Commencement Date will be, in compliance with the requirements of the Americans With Disabilities Act of 1990, California Code of Regulations Title 24, and all other applicable Laws intended to provide equal accessibility for persons with disabilities (collectively, “**Disabilities Laws**”); (b) the Building is not an unreinforced masonry building, and is now, and as of the Commencement Date will be, in compliance with all applicable Laws relating to seismic safety (collectively, “**Seismic Safety Laws**”); (c) the Building and Building Systems are now, and as of the Commencement Date will be, in compliance with all applicable Laws relating to fire and life safety (including the San Francisco High-Rise Sprinkler Ordinance) (collectively, “**Life Safety Laws**”); (d) the Building and Building Systems are now, and as of the Commencement Date will be, in compliance with all other applicable Laws; and (e) there are not now, and as of the Commencement Date will not be, any material physical or mechanical defects in the Building or the Building Systems that would materially adversely affect City’s use of the Building for the Permitted Use. 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, Building Systems (or any portion of any of them) to comply with applicable Laws as interpreted and enforced with respect to the Property on the Commencement Date (except to the extent that compliance is the responsibility of City as provided in Section 10.2 below); or (ii) any misrepresentation by Landlord under this Section.

10.2 City’s Compliance with Laws; Indemnity

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

10.3 City’s Compliance with Insurance Requirements

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

11. SUBORDINATION

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

renewals, modifications, consolidations, replacements, and extensions of any of the foregoing that may be executed by Landlord at any time in any amount for which any part of the Property, any ground lease, or underlying lease, or Landlord's interest or estate in them is subject. But, if the ground lessor, mortgagee, trustee, or holder of any mortgage or deed of trust (each an "**Encumbrancer**") elects to have City's interest in this Lease be superior to its Encumbrance, then, on City's receipt of a notice from the Encumbrancer, this Lease will be deemed superior, whether this Lease was executed before or after the date of the Encumbrance or the date of its recording. The provisions of this subsection (a) are self-operative and no further instrument will be required. At Landlord's request, however, City will enter into a subordination, non-disturbance, and attornment agreement ("**SNDA**") with Encumbrancer in a form reasonably acceptable to City and Encumbrancer evidencing the subordination or superiority of this Lease. City's covenant under this subsection (a) to subordinate this Lease to any Encumbrance is conditioned on each senior instrument containing the commitments in subsection (b) below.

(b) If any mortgage or deed of trust to which this Lease is subordinate is foreclosed or a deed in lieu of foreclosure is given to the mortgagee or beneficiary, or if any ground lease or underlying lease to which this Lease is subordinate is terminated, then this Lease will not be barred, terminated, cut off, or foreclosed and the rights and possession of City under this Lease will not be disturbed unless an Event of Default has occurred and is continuing. City will attorn to and become the tenant of the successor-in-interest to Landlord, provided that City has received proper written notice of the succession and the name and address of the successor landlord. The provisions of this Section 11(b) are self-operative and no further instrument will be required. Landlord agrees, however, to use commercially reasonable efforts to secure a commercially reasonable form of SNDA from the current Encumbrancer. With respect to future Encumbrances entered in to by Landlord after the date of this Lease, Landlord agrees, upon request by City and in a commercially reasonable form reasonably acceptable to City to cause any Encumbrancer to execute an SNDA evidencing the foregoing non-disturbance provisions together with the priority or subordination of this Lease with respect to any such Encumbrance. City agrees to execute or provide comments to any proposed SNDA within thirty (30) days after Landlord's request.

12. DAMAGE AND DESTRUCTION

(a) If the Building or any Building Systems are damaged by fire or other casualty, Landlord will repair the same without delay (and if Landlord is then carrying insurance on the Leasehold Improvements or if, at its sole option, City makes sufficient funds available to Landlord, Landlord will also repair the Leasehold Improvements, but not City's Personal Property) so long as the repairs can be made under applicable Laws within one hundred eighty (180) days after Landlord obtains all necessary permits but not later than two hundred ten (210) days after the date of the damage (the "**Repair Period**"). If Landlord is obligated to repair as provided above, then this Lease will remain in full force and effect, except that City will be entitled to an abatement of Rent until the Building is restored to its condition before the casualty unless the repair is necessitated by the negligence or willful misconduct of City or its Agents or Invitees and the damage is not covered by insurance. The abatement in Rent will be based on the extent to which the damage and the making of the repairs interferes with City's use of the Building. Landlord's repairs will not include, and the Rent will not be abated as a result of, any damage by fire or other cause to City's Personal Property or any damage caused by the negligence or willful misconduct of City or its Agents that is not covered by insurance.

(b) Within thirty (30) days after the date that Landlord is notified or has actual knowledge of the damage, Landlord will notify City whether, in Landlord's reasonable judgment made in good faith, the repairs can be made within the Repair Period. If the repairs cannot be made within the Repair Period, then either party may terminate this Lease by giving written notice to the other given within thirty (30) days after the date of Landlord's notice. The termination date will be the date specified in the termination notice, which date may be not less

than thirty (30) or more than sixty (60) days after Landlord's notice. If either party elects to terminate this Lease, then the Rent will be reduced by a proportionate amount based on the extent to which the damage interferes with the normal conduct of City's business in the Building, and City will pay the reduced Rent up to the date of termination. Landlord will refund to City any Rent previously paid for any period after the date of termination.

(c) Notwithstanding the foregoing, if the Building is damaged or destroyed, 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 (for purposes of this subsection the amount of Landlord's deductible will be considered part of the proceeds) or in the event that Landlord's lender refuses to release such proceeds, then Landlord may terminate this Lease by written notice to City within thirty (30) days after the date Landlord receives written notice that the damage is not covered by insurance or Landlord's lender has refused to release the proceeds. Landlord's termination notice must include adequate written evidence of the denial of insurance coverage or lender's refusal to release the proceeds. If Landlord does not elect to terminate this Lease as provided in this subsection (c), then subsections (a) and (b) will apply.

(d) If during the last six (6) months of the Term there is substantial damage that Landlord would be required to repair under this Section, then within thirty (30) days after the date of the damage Landlord or City may, each at its option, terminate this Lease as of the date the damage occurred by giving written notice to the other party of its election to do so; provided, however, Landlord may terminate this Lease only if it would take more than thirty (30) days to repair the damage or the damage will not be completed prior to the Expiration Date despite Landlord's good faith efforts to complete the repairs.

(e) The parties intend that the provisions of this Section fully govern their rights and obligations in the event of damage or destruction. Accordingly Landlord and City each waives and releases any right to terminate this Lease in whole or in part under Section 1932, subdivision 2, Section 1933, subdivision 4, and Sections 1941 and 1942 of the Civil Code of California or under any similar Law now or later in effect, to the extent those rights are inconsistent with the provisions of this Section.

13. EMINENT DOMAIN

13.1 Definitions

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

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

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

13.2 General

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

under Sections 1265.110, 1265.120, 1265.130 and 1265.140 of the California Code of Civil Procedure or under any similar Law now or later in effect.

13.3 Total Taking; Automatic Termination

If there is a total Taking of the Building, 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 Building, then this Lease will terminate in its entirety if all of the following exist: (i) the partial Taking, in City's reasonable judgment, renders the remaining portion of the Building untenable or unsuitable for continued use by City for its intended purposes or otherwise materially adversely affects City's normal operations in the Building or adversely affects access to the Building, (ii) the condition rendering the Building untenable or unsuitable or that materially adversely affects City's normal operations or adversely affects access to the Building either is not curable or is curable but Landlord is unwilling or unable to cure the condition, and (iii) City elects to terminate on written notice to Landlord delivered within thirty (30) days after the Date of Taking.

(b) If a partial Taking of a substantial portion of the Building occurs, a but subsection (a) above does not apply, then by written notice to the other delivered within thirty (30) days after the Date of Taking either City or Landlord may terminate this Lease, provided that, as a condition to City's right to terminate, the portion of the Building taken must, in City's reasonable judgment, render the Building unsuitable for continued use by City for its intended purposes or otherwise materially adversely affect City's normal operations in the Building or access to the Building.

(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) City's obligation to pay Rent will continue up until the date of termination and then will cease, and (b) Landlord will be entitled to the entire Award, except that City will receive any portion of the Award for the unamortized cost of any Leasehold Improvements paid for by City and any Award made specifically for City's relocation expenses or the interruption of or damage to City's business or damage to City's Personal Property.

13.6 Partial Taking; Continuation of Lease

If there is a partial Taking of the Building 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 Building 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 Building and the portion taken (for instance, if the area of the Building 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 Building taken bears to the area of the Building before the Date of Taking), and (b) Landlord will be entitled to the entire Award in connection therewith, provided that City will receive any portion of the Award for the unamortized cost of any Leasehold Improvements paid for by City in the portion of the Building taken and any

Award made specifically for City's relocation expenses or the interruption of or damage to City's business or damage to City's Personal Property.

13.7 Temporary Taking

Notwithstanding anything to contrary in this Section, if a Taking of the Building occurs for sixty (60) consecutive days or fewer, this Lease will remain unaffected by the temporary Taking, and City will continue to pay Rent and to perform all of the terms, conditions, and covenants of this Lease. In the event of a temporary Taking, City will be entitled to receive that portion of any Award representing compensation for the use or occupancy of the Building during the Term up to the total Rent owing by City and any out-of-pocket costs incurred by City due to the temporary Taking for the period of the Taking.

14. ASSIGNMENT AND SUBLETTING

(a) Except as provided in this Section, City may not directly or indirectly sell, assign, encumber, pledge, or otherwise transfer or hypothecate all or any part of its interest in or rights with respect to the Building or its leasehold estate created by this Lease or permit all or any portion of the Building to be occupied by anyone other than itself or sublet all or any portion of the Building, without Landlord's prior written consent in each instance, which will not be unreasonably withheld, conditioned, or delayed. From time to time, on prior written notice to Landlord, but without Landlord's consent, City may transfer this Lease or use and occupancy of all or any of the Building to any department, commission, or agency of the City and County of San Francisco for uses permitted under this Lease; provided that City will not be released of its obligations, and in the event of any assignment any such entity will execute an assumption of lease agreeing to be bound by the terms of this Lease.

(b) Landlord will have no obligation to consent to any assignment, sublease, or other transfer: (i) that purports to release City, (ii) if the assignee or transferee is not credit worthy, as reasonably determined by Landlord, or (iii) where any lender or mortgagee fails to consent (where such consent is required). If City desires to assign, sublet, or transfer all or part of this Lease or the Building, then in connection with City's request to Landlord for Landlord's consent thereto, City will give notice to Landlord in writing ("**Tenant's Request Notice**") containing: (i) the identity of the proposed assignee, subtenant or other party and a description of its business; (ii) the terms of the proposed assignment, subletting, or other transfer (including a copy of the proposed assignment, sublease or other document); (iii) the anticipated commencement date of the proposed assignment, subletting, or other transfer (the "**proposed sublease commencement date**"); (iv) the area proposed to be assigned, sublet, or otherwise encumbered; (v) evidence of financial responsibility of such proposed assignee, subtenant, or other party; and (vi) a certification executed by City and such party stating whether or not any premium or other consideration is being paid for the assignment, sublease or other transfer.

(c) Landlord will have thirty (30) days in which to approve or reject the proposed assignment, sublease, or other transfer. Any net profits payable to City from any sublease or assignment (after deducting all actual and reasonable costs incurred by City in connection with the proposed sublease, including marketing costs, attorneys' fees, brokers fees, and transaction costs) will be divided 50% to Landlord (the "**Additional Consideration**") and 50% to City. Landlord will have the right to review City's nonprivileged records relating to costs in order to confirm any net profit. After recovery of City's costs as provided above, City will pay the Additional Consideration monthly to Landlord within five (5) days after the same is payable to City.

(d) In addition, in lieu of approving any proposed assignment, sublease, or transfer, Landlord will have the right to recapture the portion of the Building that is proposed by City to be assigned, sublet, or transferred. If Landlord exercises this recapture right, (i) the

recaptured space will be removed from the premises demised to City under this Lease for all purposes under this Lease and City will be responsible for all costs needed to fully demise, separate, and secure the remainder of the leased premises from the recaptured space (including installation of demising walls, if applicable), **(ii)** Rent (including Additional Charges) will be proportionally reduced based upon the square footage that is removed from the leased premises, and **(iii)** the parties agree to amend this Lease to reflect the above changes to the premises and Rent, and any such amendment will be subject to the approval of the City's Director of Property without the need for Board of Supervisors' approval. Notwithstanding the foregoing, in the event Landlord exercises such recapture right as to the entire premises under lease, or in connection with a proposed assignment of this Lease, then this Lease will terminate as of the proposed effective date of such proposed transfer. In no event will the Purchase Option (defined in Section 22 (City's Option to Purchase) be available to any assignee, subtenant, or transferee, nor will the Purchase Option remain in effect in the event that City's interest has been assigned or transferred.

(e) No assignment of the Lease or right of occupancy under this Lease may be effectuated by operation of law without the prior written consent of Landlord. Any attempted assignment or transfer of this Lease or any sublet or permission to use or occupy the Building or any part of it not in accordance with this Section 14, will be void and of no force or effect. Landlord's collection or acceptance of rent from any assignee or subtenant will not be construed either as waiving or releasing City from any of its liabilities or obligations under this Lease as a principal or as relieving City or any assignee or subtenant from the obligation of obtaining Landlord's prior written consent to any subsequent assignment or subletting. As security for this Lease, City hereby assigns to Landlord the rent due from any assignee or subtenant of City during any period that there exists an Event of Default. City authorizes each assignee or subtenant to pay its rent directly to Landlord upon receipt of notice from Landlord stating that there is an Event of Default under this Lease and directing payment to Landlord. Landlord's collection of such rent will not be construed as an acceptance of such assignee or subtenant as a tenant. In no event will any assignment, sublease or other transfer release City of its obligations under this Lease. City will pay to Landlord its reasonable, out-of-pocket costs (including reasonable attorneys' fees and accounting costs) incurred by Landlord in connection with City's request for Landlord to give its consent to any assignment, subletting, or transfer within thirty (30) days after receipt of Landlord's invoice together with reasonable supporting documentation. City will deliver to Landlord a fully-executed copy of each agreement evidencing a sublease, assignment or other transfer within ten (10) days after execution thereof.

(f) Landlord acknowledges that City may operate the Building through a service provider (the "**Service Provider**") pursuant to a written agreement between City and the Service Provider (the "**Service Provider Agreement**"), but without Landlord's consent, for uses permitted under this Lease; provided that City will not be released of its obligations under this Lease. City will promptly notify Landlord of the name and contact information for the Service Provider. The Service Provider Agreement will expressly (i) provide that the Service Provider will, while in possession of the Building, comply with the applicable provisions of this Lease, and (ii) require the Service Provider to vacate and surrender the Building no later than the date of expiration or earlier termination of this Lease. Notwithstanding the fact that the Service Provider may occupy the Building, the Service Provider Agreement will not be considered an assignment, sublease or encumbrance of or on the Building, it being agreed that no property rights with respect to the Building will be transferred to the Service Provider by City. City agrees to indemnify Landlord for any costs incurred by Landlord (including, without limitation, reasonable attorneys' fees) in connection with any claim brought by the Service Provider claiming to have property rights with respect to all or any portion of the Building.

(g) All restrictions and obligations imposed pursuant to this Lease on City will extend (as applicable) to any subtenant, licensee, concessionaire, Service Provider or transferee, and City will cause such person to comply with such restrictions and obligations. Any

assignee will be deemed to have assumed obligations as if such assignee had originally executed this Lease. Any assignee will execute an assumption agreement, reasonably acceptable to Landlord. Subject to any written agreement with Landlord at the time of entering into a sublease, each sublease is subject to the condition that if the Lease is terminated or Landlord succeeds to City's interest in the Building by voluntary surrender or otherwise, at Landlord's option the subtenant will be bound to Landlord for the balance of the term of the sublease and will attorn to and recognize Landlord as its landlord under the then executory terms of the sublease. The extension options and purchase option are personal to City and are not exercisable by any transferee under any sublease, assignment, or other transfer, nor may City exercise any extension options or purchase option if City has transferred its interest in this Lease or the Building.

(h) The termination of this Lease prior to its scheduled expiration date will, unless Landlord agrees otherwise in writing in an SNDA, terminate the rights of any Service Provider, assignee, sublessee or other transferee to occupy the Building.

15. DEFAULT; REMEDIES

15.1 Events of Default by City

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

(a) After Landlord is qualified as an approved vendor as provided in Section 4.16 (Payments by City) above, City fails to make any timely payment of Rent and to cure the nonpayment within five (5) business days after receipt of written notice of nonpayment from Landlord, provided that for the first two (2) monthly payments of Rent at the beginning of the Term and for the first monthly payment of Rent after the beginning of each new fiscal year for City or any Adjustment Date, City will have twenty (20) days after written notice from Landlord to cure any nonpayment, and further provided that, except as described above, in no event will Landlord be required to provide more than three (3) written notices under this subsection (a) in any 12-month period, after which late payments will be an automatic Event of Default.

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

(c) City assigns this Lease or subleases any portion of the Building in violation of the terms of this Lease.

(d) City fails to provide evidence of insurance (to the extent required), estoppel certificates, signed SNDAs, or remove liens under Section 8.3 within the time provided in this Lease, which failure continues for five (5) business days after receipt of Landlord's written notice of default.

(e) City's failure to perform any other of its covenants or obligations under this Lease (not involving the payment of money) and failure to cure the non-performance within thirty (30) days of the date of receipt of Landlord's notice of the failure, provided that if more than thirty (30) days are reasonably required for the cure, no Event of Default will occur if City commences the cure within the thirty (30)-day period and diligently prosecutes the cure to completion (provided that where City's failure creates a dangerous condition or exposes Landlord to substantial or criminal penalties due to violations of Laws or otherwise, in which event City will be required to effect a cure within the time limit reasonably set forth by Landlord in its notice).

15.2 Landlord's Remedies

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

(a) The rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including the right to terminate City's right to possession of the Building and to recover the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that City proves could be reasonably avoided, as computed under subsection (b) of Section 1951.2.

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

(c) Consistent with and subject to any Landlord obligation to mitigate damages under California law, if an Event of Default occurs under this Lease, then Landlord may put the Building into rentable condition and relet the Building or any part thereof for such term and on such terms and conditions (which may include any concessions or allowances granted by Landlord) as Landlord, in its reasonable discretion, may determine. Whether or not this Lease and/or City's right of possession is terminated or any suit is instituted, City will be liable for any base rent, additional rent, damages or other sum that may be due or sustained before such Event of Default, and for all actual and reasonable costs, fees and expenses incurred by Landlord in pursuit of its remedies hereunder and/or in recovering possession of the Building as determined by a court of law. If Landlord does not terminate this Lease but instead leases or sublets the Building (or portion thereof), rents received by Landlord will be applied (i) first, to the payment of the costs of maintaining, preserving, altering and preparing the Building for leasing and any other costs of leasing, including but not limited to brokers' commissions and attorneys' fees and expenses; (ii) second, to the payment of rent and additional rent then due and payable hereunder; (iii) third, to the payment of future rent as the same may become due and payable hereunder; and (iv) fourth to Landlord's damages, costs and fees related to City's default (including reasonable attorneys' fees), with any surplus held by Landlord as a security deposit under commercially reasonable standards (in a non-interest bearing account, which need not be segregated) pending termination of the Lease. If the rents received by Landlord, after application as provided above, are insufficient in any month to pay the rent due and payable hereunder for such month, City will pay such deficiency to Landlord monthly within thirty (30) days of Landlord's demand.

(d) The rights and remedies of Landlord set forth in this Lease are cumulative and in addition to all other rights and remedies available to at law or in equity, including those available as a result of any anticipatory breach of this lease. The exercise by Landlord of any such right or remedy will not prevent the concurrent or subsequent exercise of any other right or remedy.

15.3 Landlord's Default

(a) Landlord will be in default under this Lease if Landlord fails to comply with any term, provision, or covenant of this Lease and such failure is not cured within thirty (30) days after written notice thereof to Landlord stating the nature of the default (unless a shorter time period to its cure is expressly specified in this Lease), or, if Landlord's failure to comply with such term, provision or covenant under this Lease materially impairs City's ability to carry on its business in the Building, then within five (5) business days after such written

notice thereof to Landlord (with such notice specifying the shorter time period and the reasons therefor) (the 30-day period and the 5 business-day period each being a “**Landlord Default Notice Period**”); provided that if the nature of such cure is such that a longer cure period is necessary, Landlord will only be in default if Landlord will have failed to commence such cure within said Landlord Default Notice Period and thereafter to have diligently prosecuted such cure to completion. If Landlord fails to cure or commence to cure within the time periods just described (such failure, a “**Landlord Default**”), City may exercise any of its remedies provided at law or in equity, but nothing in this Section 15.3 will be deemed to give Tenant the right to terminate this Lease (provided that Tenant does not waive any right of termination which Tenant may otherwise have, at law or in equity) or to offset against rent or other sums due pursuant to this Lease (except as set forth in this Lease). In addition to and without limiting the foregoing, in the event of a Landlord Default, at City’s option (i) Rent will be abated for the portion of the Building rendered unusable and not used by City as a result of such Landlord Default, continuing until the earlier of the date Landlord cures such default or the date City recommences the use of the applicable portion of the Building, or (ii) City will give written notice to Landlord and the current Encumbrancer informing them that City intends to cure the subject Landlord Default itself, and if Landlord has still failed to cure or commence to cure (as applicable) such failure within three (3) business days after such notice, City may utilize the provisions of Section 15.3(b) below. Notwithstanding anything to the contrary herein, if Rent is abated under Sections 5.3 or 9.4 of this Lease, such abatement will be in lieu of abatement under this Section 15.3(a).

(b) Whenever this Lease provides that City may utilize the provisions of this Section 15.3(b), City may perform the action required of Landlord under this Lease which Landlord has failed to perform, while at all times being in compliance with all applicable Laws pertaining to such performance, and any sums paid by City and/or City’s reasonable cost of performance will be reimbursed and/or payable to City by Landlord within thirty (30) days after receipt of City’s invoice accompanied by reasonable substantiating information. Any work performed by City under this Section 15.3(b) will be pursuant to a valid building permit (if applicable) and in a good and workmanlike manner, and if such work affects the Building structure or Building systems, such work will be performed only by Landlord’s preapproved contractors.

16. INDEMNITIES

16.1 City’s Indemnity

City will indemnify, defend, and hold harmless (“**Indemnify**”) Landlord and its Agents from and against any and all claims, losses, damages, costs, and expenses, including reasonable attorneys’ fees (collectively, “**Claims**”), incurred as a result of (a) City’s use of the Building and/or Property, or (b) any default by City in the performance of any of its material obligations under this Lease (including the Work Letter), or (c) any negligent acts or omissions of City or its Agents in, on, or about the Building or the Property; provided, however, City will not be obligated to Indemnify Landlord or its Agents to the extent any Claim arises out of the negligence or willful misconduct of Landlord or its Agents. In any action or proceeding brought against Landlord or its Agents because of a Claim Indemnified by City under this Section, at its sole option, City may elect to defend the Claim by attorneys in City’s Office of the City Attorney, by other attorneys selected by City, or both. City will have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that Landlord will have the right, but not the obligation, to participate in the defense of the Claim at its sole cost. City’s obligations under this Section will survive the termination of the Lease.

16.2 Landlord’s Indemnity

Landlord will Indemnify City and its Agents from and against any and all Claims incurred as a result of (a) any Landlord Default 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 Building or the Property; provided, however, Landlord will not be obligated to Indemnify City or its Agents to the extent any Claim arises out of the negligence or willful misconduct of City or its Agents. In any action or proceeding brought against City or its Agents because of a Claim Indemnified by Landlord under this Section, at its sole option, Landlord may elect to defend the Claim by attorneys selected by Landlord. Landlord will have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that City will have the right, but not the obligation, to participate in the defense of any Claim at its sole cost. Landlord's obligations under this Section will survive the termination of this Lease.

17. INSURANCE

17.1 City's Self-Insurance

Landlord acknowledges that City maintains a program of self-insurance and City is not be required to carry any insurance with respect to this Lease. City assumes the risk of damage to any of City's Personal Property, except for damage caused by Landlord's or its Agents' active negligence or intentional acts. City's self-insurance program will cover the following items (as if City had purchased a standard insurance policy from an independent insurance provider licensed to do business in California):

(a) Commercial general liability insurance with limits not less than Three Million Dollars (\$3,000,000) 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).

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

(c) Business automobile liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for bodily injury and property damage, including owned and non-owned and hired vehicles, as applicable, if City uses automobiles in connection with its use of the Building.

(d) An Umbrella policy in the amount of Five Million Dollars (\$5,000,000).

17.2 Landlord's Insurance

(a) At all times during the Term, Landlord will keep the Building and all improvements (including the Leasehold Improvements) 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 City's request, Landlord will provide to City a certificate of insurance issued by the insurance carrier, evidencing the required insurance. Landlord will provide (or cause its insurer to provide) at least thirty (30) days' prior written notice to City of any cancelation or reduction of coverage or other modification of Landlord's required insurance coverage. Landlord waives any rights to collect from City for loss or damage to the Building or any other part of the Property to the extent covered by Landlord's property insurance.

(b) In addition, 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 loss of rent coverage for a twelve (12) month period.

(d) 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 17.2 will be re-evaluated every five (5) years, and increased to the extent consisted with similarly situated landlords and properties.

17.3 Waiver of Subrogation

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

17.4 Liability of Landlord

(a) Neither Landlord nor Landlord's Agents will be liable to City and its Agents for any damage, injury, loss or claim to City's Personal Property or lost income based on or arising out of the following (except as expressly set forth in this Lease to the contrary, and except to the extent caused by Landlord or its Agents' negligence): repair to any portion of the Building; interruption in the use of the Building (except as otherwise provided in this Lease) or any equipment therein; any accident or damage resulting from any use or operation by City's or any other person or entity of elevators or heating, cooling, electrical, sewage or plumbing equipment or apparatus; termination of this Lease by reason of damage to the Building under Article 12; any fire, robbery, theft, vandalism, mysterious disappearance or any other casualty; actions of any other person or entity; failure or inability to furnish any service specified in this Lease (except as otherwise provided in this Lease); and leakage in any part of the Building from water, rain, ice, flooding or snow that may leak into, or flow from, any part of the Building, or from drains, pipes or plumbing fixtures in the Building (except to the extent due to Landlord's negligent failure to maintain the Building as required by this Lease). If any condition exists that may be the basis of a claim of constructive eviction, then City will give Landlord written notice thereof and a reasonable opportunity to correct such condition, and in the interim City will not be entitled to a rent abatement (except as otherwise allowed under this Lease). For purposes of this article, the term "Building" will be deemed to also include all other portions of the Property. Notwithstanding the foregoing provisions of this section, Landlord will not be released from liability to City for any physical injury to any natural person caused by the negligence or willful misconduct of Landlord or its Agents to the extent such damage is not covered by insurance either carried by City (or would have been had City not self-insured) or such person or required by this Lease to be carried by City.

(b) Neither Landlord nor any of its Agents (nor any past, present or future board member, partner, trustee, director, member, officer, employee, agent, representative or advisor of any of them) will under any circumstances be liable for any exemplary, punitive, consequential, or indirect damages in connection with or relating to this Lease. Neither Tenant nor any of its Agents (nor any past, present or future board member, partner, official, trustee, director, member, officer, employee, agent, representative or advisor of any of them) will under any circumstances be liable for any exemplary, punitive, consequential, or indirect damages in connection with or relating to this Lease.

(c) No landlord hereunder will be liable for any obligation or liability based on or arising out of any event or condition occurring during the period that such landlord was not the owner of the building or a landlord's interest therein; provided, however, that any successor landlord will be liable for continuing events and conditions.

(d) Subject to applicable Law, the obligations of City under this Lease are independent covenants and agreements, such that all such obligations of City, including, without limitation, the obligation to pay Base Rent, Additional Charges and all other sums due to Landlord hereunder, will continue unaffected, unless the requirement to pay or perform same has been terminated or abated pursuant to an express provision of this Lease. Such waiver and acknowledgements by City are a material inducement to Landlord entering into this Lease. City will not have the right to set off or deduct any amount allegedly owed to City pursuant to any claim against Landlord from any Rent or other sum payable to Landlord except as provided in this Lease. Except as provided in this Lease, City's remedy for recovering upon such claim will be to institute an independent action against Landlord; provided, however, that the foregoing will not prohibit City from asserting a counterclaim in any proceeding instituted by Landlord against City.

(e) If City or any Agent or Invitee is awarded a money judgment against Landlord, then recourse for satisfaction of such judgment will be limited solely to execution against Landlord's interest in the Property (and all insurance proceeds therefrom) or the amount that would have been available had Landlord maintained equity in the Building that exceeds twenty percent (20%) of its fair market value). No other asset of Landlord will be used to satisfy or be subject to any such judgment. No asset of any of Landlord's Agents (or any past, present or future board member, partner, director, member, officer, trustee, employee, agent, representative, or advisor of any of them (each, an "officer")) or any other person or entity, will be available to satisfy or be subject to any such judgment. No such Landlord's Agent, officer, or other person or entity will be held to have personal liability for satisfaction of any claim or judgment whatsoever under this Lease.

18. ACCESS BY LANDLORD

Landlord reserves for itself and any of its designated Agents the right to enter the Building at all reasonable times and, except in cases of emergency (in which event Landlord will give any reasonable notice), after giving City at least twenty four (24) hours' advance written notice, to **(a)** inspect the Building, **(b)** supply any service to be provided by Landlord under this Lease, **(c)** show the Building 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 Building, and, for that purpose, Landlord may erect, use, and maintain necessary structures in and through the Building where reasonably required by the work to be performed, provided that the entrance to the Building may not be blocked. Landlord may not interfere with City's use of the Building.

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 BUILDING

On the expiration or sooner termination of this Lease, City will vacate and surrender the Building to Landlord in good order and condition, excepting reasonable use and wear and damage by fire or other casualty or condemnation. Within ten (10) days after the Expiration Date, City will remove from the Building all of City's Personal Property, City's telecommunications, data and computer facilities and any Alterations City desires or is required to remove from the Building under the provisions of Section 7.1 (Alterations by City). City will repair or pay the cost of repairing any damage to the Building resulting from that removal. City will not be required to demolish or remove from the Building any of the Leasehold Improvements, with the exception of Landlord's right to require, by written notice to City no later than one hundred and twenty (120) days prior to the expiration or earlier termination of this Lease, that City will remove the glass enclosures around the second (2nd) floor openings and restore the affected areas, at City's cost, upon the expiration or earlier termination of this Lease, or Landlord, when written notice is given, may provide City with an estimated cost of removal and City at its option may pay Landlord for the cost of removal. City's obligations under this Section will survive the expiration or earlier termination of this Lease. If City fails to remove its furniture, furnishings, equipment, City's Personal Property, debris and designated Alterations as required under this Section, Landlord will have the right at City's expense, to remove from the Building any or all such items (and put the Building in the condition required) and City will pay to Landlord all actual and reasonable costs incurred by Landlord in effectuating such removal and restoration plus a four percent (4%) administrative fee.

21. HAZARDOUS MATERIALS

21.1 Definitions

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

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

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

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

21.2 Landlord's Representations and Covenants

Landlord represents and warrants to City that, to Landlord's actual knowledge, the following statements are true and correct and will be true and correct as of the Commencement Date **(a)** the Property is not in violation of any Environmental Laws; **(b)** the Property is not now, and has not been, used for the manufacture, use, storage, discharge, deposit, transportation, or disposal of any Hazardous Material, except for the use of Hazardous Material in limited quantities as are customarily used in offices, which limited use is and has been in compliance with Environmental Laws; **(c)** the 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 in violation of applicable Laws, and the Building does not contain any lead-based paints in violation of applicable Laws; **(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 City'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 City's employees or City's use, occupancy, or enjoyment of the Building for their intended purposes, except to the extent caused by City and its Agents and Invitees.

21.3 Landlord's Environmental Indemnity

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

21.4 City's Covenants

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

21.5 City's Environmental Indemnity

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

22. OPTION TO PURCHASE

22.1 Grant of Option to Purchase

Landlord grants to City an exclusive and irrevocable option to purchase the Property (the "**Purchase Option**") for the price and on the terms and conditions set forth in this Section.

During the first (1st) twelve (12) months of the Term of this Lease, in the event that Landlord elects, in its sole discretion, to sell the Property, Landlord will first notify Tenant in writing of such desire to sell (the “**Offer Notice**”), which notice will include the purchase price for the Property (the “**Purchase Price**”). Tenant will have sixty (60) days after receipt of the Offer Notice to notify Landlord in writing of Tenant’s election to exercise its Purchase Option, at the Purchase Price. If Tenant fails to exercise its Purchase Option as provided in the preceding sentence within such sixty (60) day period, then Landlord will have the right to sell the Property to any party desired by Landlord and otherwise upon any terms desired by Landlord, as long as the purchase price which such third party agrees to pay in a written agreement of purchase and sale is not less than 92% of the Purchase Price included in the Offer Notice. In the event that Landlord desires to accept, in its sole discretion, proceeding with the third party transaction for a Purchase Price which is less than 92% of the Purchase Price included in the Offer Notice, then Landlord must first reoffer the Property to City at such lower price (and City will have sixty (60) days to exercise its Purchase Option at such lower price by giving Landlord notice thereof in writing). In the event of City’s timely exercise of its Purchase Option hereunder, City will be obligated to purchase from Landlord and Landlord will be obligated to sell and convey to City the Property for the Purchase Price and otherwise on the terms and conditions provided herein.

22.2 Continuation of Lease

Notwithstanding City’s exercise of the Purchase Option, this Lease, including City’s obligation to pay Rent, will continue in full force and effect until the date of recordation of a deed conveying the Property to City, at which time this Lease will terminate.

23. CITY PROVISIONS

23.1 MacBride Principles - Northern Ireland

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

23.2 Controller’s Certification of Funds

The terms of this Lease are governed by and subject to the budgetary and fiscal provisions of City’s Charter. Notwithstanding anything to the contrary contained in this Lease, there will be no obligation for the payment or expenditure of money by City under this Lease unless the Controller of the City and County of San Francisco first certifies, under Section 3.105 of City’s Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Without limiting the foregoing, if in any fiscal year of City after the fiscal year in which the Term of this Lease commences, sufficient funds for the payment of Rent are not appropriated, then City may terminate this Lease, without penalty, liability, or expense of any kind to City, as of the last date on which sufficient funds are appropriated. City’s Department of Public Health will use reasonable efforts to give Landlord at least three (3) months advance notice of any such projected termination. In no event will City give less than thirty (30) days advance notice of any such actual termination. Department of Public Health Staff will, as part of City’s budgetary process, seek to obtain the necessary appropriation of funds from City’s Board of Supervisors. If City terminates this Lease due to lack of appropriated funds under this Section 23.2, then the Department of Public Health will not expend funds in the fiscal year that such termination occurs, or the subsequent fiscal year, for the purpose of renting space in any other privately-owned building to operate the program that was located in the Building in the fiscal year that this Lease terminated.

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 Building to (A) pay workers performing the work not less than the Prevailing Rate of Wages, (B) provide the same hours, working conditions, and benefits as in each case are provided for similar work performed in San Francisco County, and (C) employ Apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, “**Prevailing Wage Requirements**”). Landlord will cooperate with City in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements, and City will reimburse Landlord for Landlord’s actual out-of-pocket costs in cooperating with City in such action or proceeding if the action or proceeding is related to Alterations performed by City.

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

23.4 Non Discrimination in City Contracts and Benefits Ordinance

(a) Covenant Not to Discriminate

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

(b) Subcontracts

Landlord will include in all subcontracts relating to the Building 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 City, or where the work is being performed for City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits, or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of the employees, where the domestic partnership has been registered with a governmental entity under state or local law authorizing that registration, subject to the conditions set forth in San Francisco 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 City are incorporated into this Section by reference and made a part of this Lease as though fully set forth. Landlord will comply fully with and be bound by all of the provisions that apply to this Lease under 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 City in the construction of the Leasehold Improvements or otherwise in the performance of this Lease that are tropical hardwood, tropical hardwood wood products, virgin redwood, or virgin redwood wood products.

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

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

23.6 Bicycle Parking Facilities

San Francisco Planning Code (the “**Planning Code**”) Article 1.5, Section 155.3 requires that bicycle parking must be provided at City-leased buildings at no cost to Landlord, provided that City will be solely responsible for providing such parking as provided herein. 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 City and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person’s or organization’s net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement, or other benefit until and unless that person or organization is awarded the contract, lease, agreement, or benefit. Information provided that is covered by this Section will be made available to the public on request.

23.9 Conflicts of Interest

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

23.10 Notification of Prohibition on Contributions

By executing this Lease, Landlord acknowledges its obligations under Section 1.126 of the City’s Campaign and Governmental Conduct Code, which prohibits any person who leases, or seeks to lease, to or from any department of the City any land or building from making any campaign contribution to **(a)** a City elected official if the lease must be approved by that official, **(b)** a candidate for that City elective office, or **(c)** a committee controlled by that elected official or a candidate for that office, at any time from the submission of a proposal for the lease until the later of either the termination of negotiations for the lease or twelve (12) months after the date the City approves the lease. Landlord acknowledges that the foregoing restriction applies only if the lease or a combination or series of leases or other contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of one hundred thousand dollars (\$100,000) or more. Landlord further acknowledges that **(i)** the prohibition on contributions applies to each prospective party to the lease; any person with an ownership interest of more than 10 percent (10%) in Landlord; any subcontractor listed in the lease; and any committee that is sponsored or controlled by Landlord; and **(ii)** within thirty (30) days of the submission of a proposal for the Lease, the City department with whom Landlord is leasing is obligated to submit to the Ethics Commission the parties to the lease and any subcontractor. Additionally, Landlord certifies that it has informed each such person of the limitation on contributions imposed by

Section 1.126 by the time it submitted a proposal for the lease, and has provided the names of the persons required to be informed to the City department with whom it is leasing.

23.11 Preservative-Treated Wood Containing Arsenic

Landlord may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Environment Code Section 1304. The term “preservative-treated wood containing arsenic” means wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Landlord may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Landlord from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term “saltwater immersion” means a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

24. GENERALLY APPLICABLE PROVISIONS

24.1 Notices

Except as otherwise specifically provided in this Lease, any notice given under this Lease must be in writing and given by delivering the notice in person or by commercial courier, or by sending it by first-class mail, certified mail, return receipt requested, or Express Mail, return receipt requested, with postage prepaid, to: **(a)** City at City’s address set forth in the Basic Lease Information; or **(b)** Landlord at Landlord’s address set forth in the Basic Lease Information; or **(c)** any other address designated by as either Landlord or City as its new address for notices by notice given to the other in accordance with this Section. A properly addressed notice transmitted by one of the foregoing methods will be deemed received upon confirmed delivery, attempted delivery, or rejected delivery. For convenience of the parties, copies of notices may also be given by email to the email address number set forth in the Basic Lease Information or any other email address as may be provided from time to time, but, neither party may give official or binding notice by email.

24.2 No Implied Waiver

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

24.3 Amendments

The terms and provisions of this Lease may only be changed, waived, discharged, or terminated by a written instrument signed by both parties. No waiver of any breach will affect or alter this Lease, and each and every term, covenant, and condition of this Lease will continue in

full force and effect with respect to any other then-existing or subsequent breach. Whenever this Lease requires or permits City's consent or approval, the Director of Property, or 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. City will promptly inform Landlord of any consent or approval that requires additional action on the part of the City. City's agreement to any amendments or modifications to this Lease (including the exhibits) may be made on the sole approval of the Director of Property, or his or her designee; provided, however, material amendments or modifications to this Lease **(a)** changing the legal description of the Building, **(b)** increasing the Term, **(c)** increasing the Rent, **(d)** changing the general use of the Building from the use authorized under Section 5.1 (Permitted Use), and **(e)** any other amendment or modification that materially increases City's liabilities or financial obligations under this Lease will also require the approval of City's Board of Supervisors.

24.4 Authority

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

24.5 Parties and Their Agents; Approvals

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

24.6 Interpretation of Lease

The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and will in no way define or limit the scope or intent of any provision of this Lease. Except as otherwise specifically provided in this Lease, wherever Landlord or City is required or requested to give its consent or approval to any matter or action by the other, the consent or approval will not be unreasonably withheld or delayed and the reasons for disapproval of consent will be stated in reasonable detail in writing. Provisions in this Lease relating to number of days will be calendar days, unless otherwise specified. If the last day of any period to give notice, reply to a notice, or to take any other action occurs on a Saturday, Sunday, or a bank or City holiday, then the last day for taking the action or giving or replying to the notice will be the next succeeding business day. The words "**include**" or "**including**" or similar words will not be construed to limit any general term, statement, or other matter in this Lease or any of its attached exhibits, whether or not language of non-limitation, such as "without limitation" or similar words, are used.

24.7 Successors and Assigns

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

24.8 Brokers

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

24.9 Severability

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

24.10 Governing Law

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

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 Building and may not be contradicted by evidence of any prior or contemporaneous written or oral agreements or understandings. The parties further intend that this Lease will constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts and changes) may be introduced in any judicial, administrative, or other legal proceeding involving this Lease.

24.12 Holding Over

If City holds over in possession of the Building after the expiration of the Term with Landlord's consent, that holding over will not be deemed to extend the Term or renew this Lease, and City's tenancy will continue as a month-to-month tenancy until the tenancy is terminated by either party by giving least thirty (30) days' prior written notice of termination. The month-to-month tenancy will be on all the terms and conditions of this Lease and at the monthly Base Rent in effect during the last month of the Term or as Landlord and City may mutually agree in writing. If City holds over without Landlord's consent, the rent payable by City during the period of holding over will be one hundred twenty-five percent (125%) of the

monthly Base Rent in effect during the last month of the Term of this Lease, and the tenancy will otherwise be on the terms and conditions contained in this Lease, but Landlord's acceptance of such holdover fee will not limit Landlord's other rights and remedies under this Lease or at Law or in equity. If, as provided in Sections 7.3 (b) and Section 20 above, City fails to remove its or a Supplier's furniture, furnishings, equipment, City's Personal Property and designated Alterations by the Expiration Date, then City's continued possession will be deemed a holding over, but Base Rent will not be payable for a ten (10)-day period so long as City complies with Section 20 (Surrender of Building) no later than the last day of such ten (10)-day period; if City remains in possession of the Building beyond that ten (10)-day period, then City's possession will be deemed a holding over and Base Rent will be payable for the entire hold over period (including the 10 days) as set forth in this Section 24.12. In no event will any nonconsensual holdover be deemed a permitted extension or renewal of the Term. City will be liable for any and all Claims and damages incurred by Landlord in connection with City's nonconsensual holding over.

24.13 Cumulative Remedies

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

24.14 Time of Essence

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

24.15 Survival of Indemnities

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

24.16 Signs

City may erect or post exterior signs on or about the Building and Property with Landlord's prior approval, at City's sole cost and in compliance with all applicable Laws. Landlord reserves the right to review and approve the placement, design, and plan for before City's 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 Building are permitted as provided under Article 7 (Alterations). Upon expiration or earlier termination of this Lease, City will remove the signs at its sole cost and repair any damage caused by such removal.

24.17 Quiet Enjoyment and Title

Landlord covenants and represents that it has full right, power, and authority to grant the leasehold estate as provided in this Lease, and covenants that City, on paying the Rent and performing the covenants contained in this Lease, will peaceably and quietly have, hold, and enjoy the Building 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.

24.18 Bankruptcy

Landlord represents and warrants to City that Landlord has neither filed nor been the subject of any filing of a petition under the federal bankruptcy law or any federal or state insolvency laws or laws for composition of indebtedness or for the reorganization of debtors, and, to the best of Landlord's knowledge, no such filing is threatened. City's leasehold estate under this Lease includes all rights to receive and enjoy all services, facilities, and amenities of the Building as provided in this Lease. If any of the services, facilities, or amenities are terminated, or materially limited or restricted because of any such case or proceeding, or for any other reason, City may **(a)** contract directly with any third-party provider of those services, facilities, or amenities, and **(b)** offset against the Rent all reasonable costs and expenses incurred by City in obtaining those services, facilities, or amenities.

24.19 Transfer of Landlord's Interest

Landlord may transfer its interest in the Property, the Building, or this Lease, and Landlord will be relieved of Landlord's obligations under this Lease accruing from and after the date of the transfer when **(a)** Landlord has provided notice to City of the name and address of Landlord's successor, **(b)** City has reasonably approved Landlord's transferee, and **(c)** Landlord has delivered to City an express written assumption by the transferee of all of Landlord's obligations under this Lease accruing from and after the date of the transfer. Notwithstanding the foregoing, **(i)** City will not withhold its approval of the transferee unless City actually has reasonable evidence that the proposed transferee is incapable of properly performing the obligations of Landlord remaining under this Lease following the date of the transfer, **(ii)** within ten (10) days of City's receipt of Landlord's written request for approval, City will provide its written approval or disapproval to Landlord, and in the case of disapproval, such response from City will include a reasonably detailed explanation of the evidence which was the basis for City's withholding of approval (and City's failure to provide such written approval or disapproval within such 10-day period shall constitute deemed approval); and **(iii)** in no event will City's approval be required for a transfer to an Encumbrancer or a purchaser at a foreclosure sale (or a deed-in-lieu of foreclosure, or other instance where the Encumbrance is instigating such transfer). Landlord will provide City information on Landlord's transferee reasonably necessary for City to evaluate Landlord's transferee in accordance with this Section.

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

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

24.21 Counterparts

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

24.22 Effective Date

This Lease will become effective on the date (the "**Effective Date**") that **(a)** 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. City will promptly notify Landlord in writing of the occurrence of subclause (a) above (the "**Notice of Approval**"). If subclause (a) does not occur by July 1, 2021, then Landlord may

terminate this Lease upon written notice to City given at any time before City's delivery of the Notice of Approval to Landlord.

24.23 *Intentionally omitted*

24.24 Attorneys' Fees

If either Landlord or City fails to perform any of its obligations under this Lease or if a dispute arises concerning the meaning or interpretation of any provision of this Lease, the defaulting party or the non-prevailing party in the dispute, as the case may be, will pay the reasonable attorneys' and experts' fees and costs, and all court costs and other costs of action incurred by the prevailing party in connection with the dispute and/or prosecution or defense of an action and enforcing or establishing its rights under this Lease (whether or not any action is prosecuted to a judgment). For purposes of this Lease, reasonable attorneys' fees of City's Office of the City Attorney will be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the legal subject matter area who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. The term "attorneys' fees" also includes all fees incurred for appeals, mediations, arbitrations, and bankruptcy proceedings, and whether or not any action is brought in the matter for which the fees were incurred. The term "costs" means the costs and expenses of counsel to the parties, which may include printing, duplicating, and other similar expenses, air freight charges, expert fees, and fees billed for law clerks, paralegals, and others not admitted to the bar but performing services under the supervision of an attorney. For purposes of this Lease, reasonable attorneys' fees of Landlord will include any in-house counsel fees at the rate set forth above for City staff attorneys.

24.25 Memorandum of Lease

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

24.26 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.

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

LANDLORD:

1076 HOWARD STREET LLC,
a Delaware limited liability company

By:  _____

Its: President _____

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
ANDRICO Q. PENICK
Director of Property

RECOMMENDED:

Greg Wagner
Chief Operating Officer
Department of Public Health

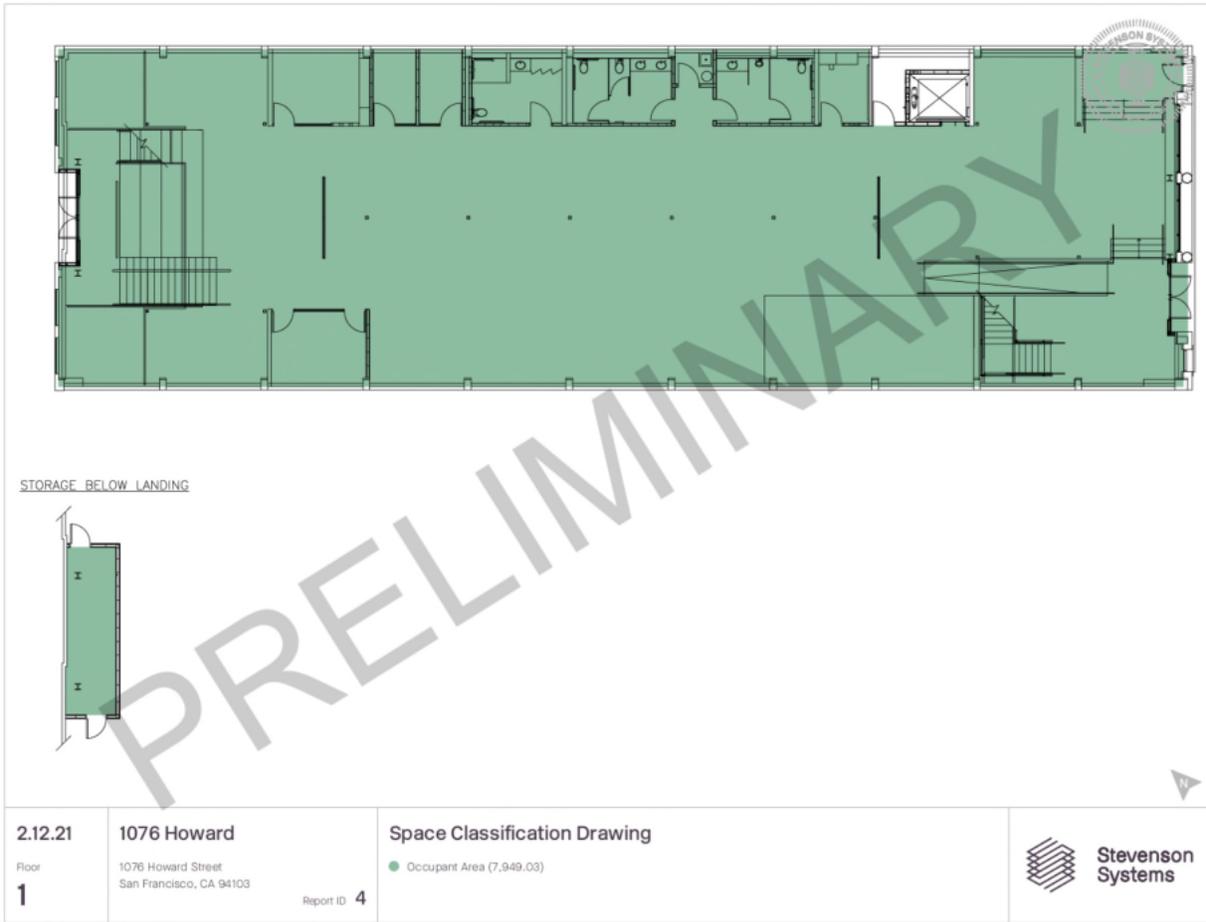
APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Shari Geller Diamant
Deputy City Attorney

EXHIBIT A

FLOOR PLAN(S) OF BUILDING



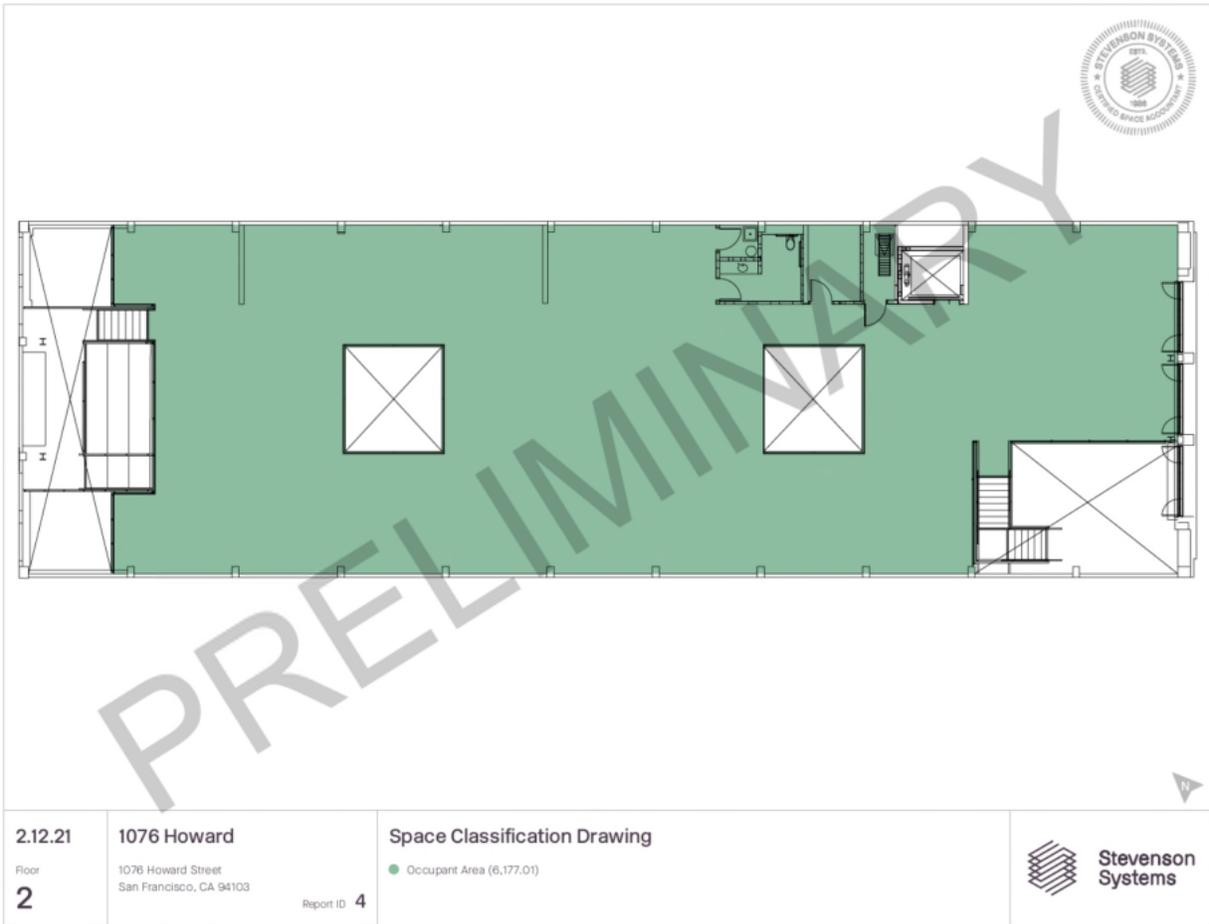


EXHIBIT B

NOTICE OF COMMENCEMENT DATE

[Date]

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

RE: Acknowledgement of Commencement Date, Lease Between 1076 HOWARD STREET LLC (Landlord), and the CITY AND COUNTY OF SAN FRANCISCO (Tenant), for the building located at 1076 Howard Street

Dear Mr. Penick:

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

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

Very truly yours,

By: _____
Title: _____

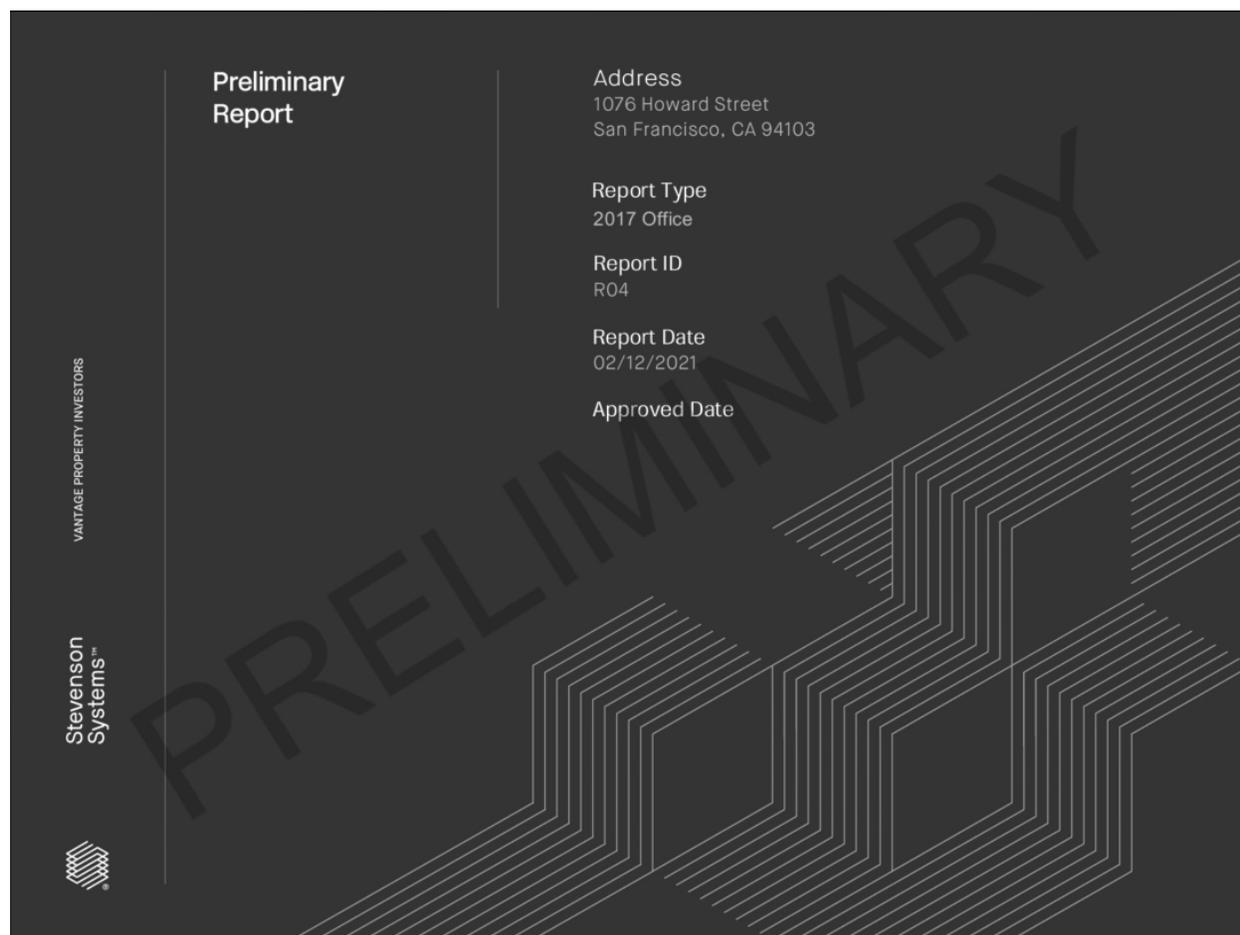
Accepted and Agreed:

By: _____
Andrico Q. Penick
Director of Property

Dated: _____

EXHIBIT C

STEVENSON SYSTEMS REPORT (SELECTED PAGES)



1076 Howard Street Report Date: 2/12/2021

**Preliminary
Usable Area
Calculation Summary**

Floor	Total Measured Area	Usable Area
1	7,949.03	7,949.03
2	6,177.01	6,177.01
Total R04	14,126.04	14,126.04

PRELIMINARY

APPROVED BY

DATE

EXHIBIT D
WORK LETTER

[to be attached]

EXHIBIT E
INTENTIONALLY OMITTED

EXHIBIT F
INTENTIONALLY OMITTED

EXHIBIT G
INTENTIONALLY OMITTED

EXHIBIT H

FORM OF MEMORANDUM OF LEASE

RECORDING REQUESTED BY, AND
WHEN RECORDED, MAIL TO:

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

Exempt from recording fees under Government Code
Section 27383.

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

1076 Howard Street
Block [], Lot []

(Space above this line reserved for Recorder’s use only)

MEMORANDUM OF LEASE

This Memorandum of Lease (“**Memorandum**”), dated for reference purposes as of _____, 20__, is by and between 1076 Howard Street LLC, a Delaware limited liability company (“**Landlord**”), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“**City**”).

Recitals

A. Landlord and City have entered into that certain Lease, dated _____, 20__ (the “**Lease**”), under which Landlord leased to City and City leased from Landlord the real property more particularly described in the attached **Exhibit A** (the “**Property**”) and granted City the right to purchase the Property under certain circumstances (the “**Purchase Option**”).

B. Landlord and City desire to execute this Memorandum to provide constructive notice of the Lease and the Purchase Option to all third parties.

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

1. Term. Under the terms of the Lease, Landlord leased the Property to City for a term commencing on the Commencement Date (as defined in the Lease). The Term of the Lease will expire on the last day of the one hundred and second (102nd) full calendar month after the Commencement Date, subject to one (1) option to extend (subject to the terms and conditions of the Lease), unless earlier terminated in accordance with the terms of the Lease.

2. Lease Terms. Landlord leases the Building to City on the terms and conditions of the Lease, which are incorporated into this Memorandum by reference as if they were fully set forth in this Memorandum; the rights and obligations of Landlord and Tenant are

contained in the Lease. This Memorandum does not and will not be deemed to modify, alter, or amend the Lease in any way. If any conflict exists between the terms of the Lease and this Memorandum, the terms of the Lease will govern. Except as otherwise defined in this Memorandum, capitalized terms have the meanings given them in the Lease.

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

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

LANDLORD:

1076 Howard Street LLC
a Delaware limited liability company

By: _____

Its: _____

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation,

By: _____

ANDRICO Q. PENICK
Director of Property

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

State of California)
) ss
County of _____)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

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

State of California)
) ss
County of _____)

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

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Signature _____ (Seal)

EXHIBIT A
TO MEMORANDUM OF LEASE

Legal Description of Property