

LEASE

1. **DEFINITIONS.** Each reference in the Lease to any of the following subjects shall be construed to incorporate the data stated for that subject in this Section 1.

Date of this Lease: January 1, 2022

Name and Notice Address of Tenant: City of San Diego
Department of Real Estate and Airport Management
1200 Third Ave, Ste. 1700
San Diego, CA 92101
Attn: Director

Name and Notice Address of Landlord: 1401-85 E, LP
16960 Mesamint Street
San Diego, CA 92127

Premises: 8,566 rentable square feet of space located at 1451 E Street, San Diego, California 92101, as approximately shown on Exhibit A attached hereto and made a part hereof.

Property: The building commonly known as 1451 E Street, San Diego, California (the "Building") and the land parcel(s) on which the Building is located (including adjacent sidewalks and ancillary improvements), together with the buildings located at 843 and 847 14th Street, 1401, 1425, 1435 and 1485 E Street.

Permitted Uses: Storage for the San Diego Police Department.

Term: Twelve (12) months, with two (2), one (1)-year options subject to the terms and conditions of Section 3 below.

Commencement Date: January 1, 2022

Expiration Date: December 31, 2022

Base Rent:

Period	Monthly Base Rent
Initial Term: 1/1/2022 – 12/31/2022	\$12,420.70
Option Term 1: 1/1/2023 – 12/31/2023	\$12,917.53
Option Term 2: 1/1/2024 – 12/31/2024	\$13,434.23

Security Deposit: None.

Brokers: None.

Exhibits:

The following Exhibits are attached to and are a part of this Lease. If there is any conflict between the terms and conditions of this Lease and the terms and conditions of any Exhibit, then the terms and conditions of this Lease shall apply.

Exhibit A - Plan showing the Premises

Exhibit B - Rules and Regulations

2. **THE PREMISES.** Landlord hereby lets to Tenant, and Tenant leases from Landlord, upon and subject to the terms and provisions of this Lease, the Premises. The Premises are leased with the right of Tenant to use for its customers, employees and visitors, in common with other entities thereto, such Common Areas and facilities in or appurtenant to the Building as Landlord may from time to time designate and provide in its sole discretion (the "Common Areas"). Tenant may not enter the Property or take occupancy of the Premises prior to the Commencement Date without Landlord's prior written consent, in its sole discretion. The parties stipulate that the Premises contains the floor area identified in Section 1, and such floor area is not subject to adjustment or remeasurement by Landlord or Tenant. Landlord reserves the right to remeasure the Building and recalculate Tenant's Percentage. Use of the roof above the Premises is reserved exclusively to Landlord. Tenant shall not be allowed on the roof without Landlord's prior written consent, which consent may be withheld in Landlord's sole discretion.
3. **TERM.** The Premises are leased for a term (the "Term") beginning on the Commencement Date and ending on the Expiration Date, as may be extended in accordance with this Lease. In addition, Landlord hereby grants the Tenant named in this Lease ("Original Tenant") two (2) options (each, an "Option") to extend the Term for the entire Premises for a period of one (1) year each (each, an "Option Term"), which Options shall be exercisable only by written notice delivered by Tenant to Landlord as set forth below. The Options shall be personal to Original Tenant and may only be exercised by Original Tenant (and not any assignee, sublessee or other transferee of Original Tenant's interest in this Lease) if the Original Tenant occupies the entire Premises as of the date of Tenant's Acceptance (defined below). Each Option shall be exercised by Tenant only in the following manner: (i) Tenant shall not be in default beyond any applicable notice and cure period on the delivery date of the Exercise Notice; and (ii) Tenant shall deliver written notice ("Exercise Notice") to Landlord not less than sixty (60) days prior to the expiration of the Term or the first Option Term (as the case may be), stating that Tenant is irrevocably exercising the applicable Option. Tenant's failure to deliver the Exercise Notice on or before the date specified above shall be deemed to constitute Tenant's election not to exercise the applicable Option. If Tenant timely and properly exercises an Option, the Term or the first Option Term (as the case may be) shall be extended for the applicable Option Term upon all of the terms and conditions set forth in this Lease, except that the Base Rent for the applicable Option Term shall be as indicated in Section 1 above.
4. **CONDITION OF PREMISES.**
 - (a) **Prior Lease.** Tenant hereby acknowledges that it is currently the tenant of and in possession of the Premises pursuant to that certain lease dated June 1, 2016 (the "**Prior Lease**"). The term of the Prior Lease has expired but Tenant has held over in possession of the Premises on a month-to-month basis. Landlord and Tenant hereby acknowledge and agree that the Prior Lease shall terminate as of the Commencement Date. Tenant warrants, represents and certifies to Landlord that as of the date of this Lease, Landlord is not in default under the Prior Lease. All of Tenant's obligations under the Prior Lease that specifically survive the expiration or earlier termination of such Prior Lease shall survive the execution of this Lease, and Landlord, at

Landlord's election in addition to all of its rights and remedies available under this Lease, may exercise any of its rights and remedies with respect to such obligations as set forth in the Prior Lease. Tenant represents, warrants and covenants to Landlord as follows: (a) Tenant has not assigned or sublet all or any portion of its interest in the Premises or the Prior Lease; and (b) as of the date hereof there are no, and as of the Commencement Date there shall not be, any mechanic's liens or other liens encumbering all or any portion of the Premises or Tenant's leasehold estate under the Prior Lease as the result of any act or omission on the part of Tenant or its contractors, officers, agents, employees, successors or assigns.

(b) **Possession.** Tenant acknowledges that it is currently in possession of the Premises pursuant to the Prior Lease and Landlord shall have no obligation to deliver possession of the Premises to Tenant. As of the Commencement Date, Tenant shall continue to accept the Premises and the Building in their current as-is, where is, with all faults and conditions. Tenant acknowledges that, except as otherwise expressly set forth in this Lease, neither Landlord nor Landlord's affiliates have made any representation or warranty with respect to the Premises or the Building or their condition, or with respect to the suitability thereof for the conduct of Tenant's business.

5. MONTHLY RENT.

(a) Throughout the Term of this Lease, Tenant will pay "Rent" to Landlord for the Premises. Rent shall consist of monthly "Base Rent" as set forth in Section 1 of this Lease together with all additional rent ("Additional Rent") required to be paid by Tenant to Landlord as otherwise set forth in this Lease. Commencing on the Commencement Date, monthly Rent will be paid in advance on or before the first day of each calendar month throughout the Term. If the Commencement Date shall be on any day other than the first day of a calendar month, then monthly Rent will be prorated based upon the actual number of calendar days in such month. Rent will be paid to Landlord, without written notice or demand, and without deduction or offset, in lawful money of the United States of America at Landlord's Address as set forth in Section 1 of this Lease, or to such other address as Landlord may from time to time designate in writing. Tenant hereby acknowledges that late payment by Tenant of Rent or other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed on Landlord by the terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of Rent or any other sums due from Tenant shall not be received by Landlord within five (5) days after such amounts shall be due, Tenant shall pay to Landlord a late charge equal to five percent (5%) of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant, and in furtherance of the foregoing, Landlord and Tenant agree that the late fee is intended to constitute liquidated damages to Landlord pursuant to Sections 1671 and 1951.5 of the Civil Code. Acceptance of such late charges by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount or prevent Landlord from exercising any of the other rights and remedies granted hereunder. Any amount due to Landlord, if not paid when due, shall bear interest from such date until paid at the rate of twelve percent (12%) per annum or the highest rate permitted by any applicable law, rule or governmental regulation, now or hereafter in effect (together, "Laws"), whichever is less. Payment of interest shall not excuse or cure any default hereunder by Tenant. Notwithstanding anything to the contrary in this Lease, Tenant shall pay the first installment of Base Rent and Additional Rent due hereunder upon execution of this Lease.

(b) Notwithstanding anything to the contrary in this Lease, Tenant's obligation to pay Rent and Tenant's associated right to occupy the Premises after June 30, 2022, are subject to the City Council of Tenant ("City Council") appropriating money to pay Rent under the Lease in Tenant's fiscal years following Tenant's 2021-2022 fiscal year (July 1, 2021 – June 30, 2022), in the City Council's sole and absolute discretion. Tenant agrees to annually take all necessary action to include Rent payments under the Lease in Tenant's future proposed annual budgets for all Tenant fiscal years following Tenant's 2021-2022 fiscal year in which any part of the Term of this Lease occurs, subject to the reserved sole and absolute discretion of the City Council to approve each such budget, with or without appropriating money for Rent payments under the Lease. The parties acknowledge that the City Council adopts an annual fiscal year budget for Tenant before the end of each fiscal year. If the City Council does not appropriate money to pay Rent under the Lease in Tenant's annual budget for a fiscal year in which any part of the Term occurs, Tenant may terminate the Lease effective as of the end of its then current fiscal year by delivering written notice to Landlord within three (3) days of such budget adoption by the City Council, in which event Tenant shall vacate the Premises on or before the end of its then current fiscal year. Tenant will notify Landlord in writing when any Tenant budget item is noticed for consideration at a public City Council meeting during the months of April, May or June of each Tenant fiscal year during the Term after Tenant's 2021-2022 fiscal year.

6. RESERVED.

7. INSURANCE; WAIVER OF SUBROGATION.

(a) Prior to the commencement of the Term hereof, and from time to time thereafter as required by Landlord, Tenant will provide Landlord with a certificate of insurance or other evidence of (a) comprehensive liability insurance coverage, relative to Tenant's occupancy of the Premises, with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate; (b) so-called "all-risk" commercial property insurance on a "replacement cost" basis with an agreed value endorsement and no co-insurance penalty provision covering all furniture, furnishings, fixtures and equipment and other personal property brought to the Premises by Tenant and all improvements and betterments to the Premises performed at Tenant's expense; (c) so-called "business income and extra expense" insurance in a reasonable amount and comparable to amounts carried by comparable tenants in comparable buildings as determined by Landlord in its sole discretion; (d) workmen's compensation insurance (including employer's liability insurance) in an amount not less than the statutory requirements for the State of California for the workmen's compensation insurance and \$1,000,000 for the employer's liability insurance; (e) business automobile liability insurance on an occurrence basis with limits of \$1,000,000 per accident; (f) with respect to Alterations or improvements required or permitted to be made by Tenant hereunder, contingent liability and builders risk insurance in amounts satisfactory to Landlord; and (g) if applicable to Tenant's use of the Premises, boiler and machinery insurance with coverage against loss or damage resulting from an equipment accident.

(b) Tenant shall maintain such insurance in force throughout the Term of this Lease. All such insurance shall contain a cross-liability endorsement and a clause confirming that such insurance, shall be written on an occurrence basis (and not on a claims made basis), and the coverage evidenced thereby shall be primary. Such insurance shall name Landlord and all beneficiaries, agents, and mortgagees of Landlord as additional insureds and shall include a specific waiver of subrogation. The form and substance of Tenant's insurance shall be satisfactory to Landlord. A certificate Letter of Self Insurance shall be delivered to Landlord prior to the commencement of the Term. Tenant shall procure and pay for renewals of such insurance from time to time before the expiration thereof, and deliver to Landlord and any additional insureds including, but not

limited to, the Landlord, and the manager of the Building, such renewal policy or a certificate thereof at least thirty (30) days prior to expiration of any existing policy. Each such policy shall be non-cancelable and not materially changed without at least thirty (30) days' prior written notice to Landlord. In the event that Tenant fails to obtain or maintain the insurance required above or fails to provide the required certificates of insurance, Landlord may, at its option, obtain such insurance on behalf of Tenant, and Tenant shall pay, as Additional Rent upon demand, the reasonable cost of such insurance plus a twenty-five percent (25%) surcharge. Landlord's failure to obtain such coverage on behalf of Tenant shall not limit Tenant's liability in the event of an uncovered loss.

(c) Notwithstanding anything to the contrary contained in the Lease, Tenant (and not any assignee, subtenant or other transferee) may, subject to the provisions of this Section 7(c), fulfill any of its insurance obligations under this Section 7 above by self-insurance. Any self-insurance so maintained by Tenant shall be deemed to contain all of the terms and conditions applicable to such insurance as required in this Section 7, including, without limitation, a deemed additional insured provision (as to the coverage in Section 7(a)(a)) and a deemed waiver of subrogation; consequently, Landlord shall be treated, for all purposes, as if Tenant had actually purchased such insurance from a third party. With respect to any claims which may result from incidents occurring during the Term, such self-insurance obligation shall survive the expiration or earlier termination of this Lease to the same extent as the insurance required hereunder would survive.

8. **OPERATING EXPENSES.** The term "Operating Expenses" shall mean and include all expenses, costs, and fees and disbursements paid or incurred by or on behalf of Landlord for managing, operating, maintaining and repairing the Property, including, without limitation, costs of: repair, maintenance and re-striping of the parking and dock areas; landscaping; maintenance of the Common Areas; any utilities provided by Landlord pursuant to Section 16 herein; management fees; supplies, sundries, sales or use taxes on supplies or services; wages and salaries of all persons engaged in the operation, administration, maintenance and repair of the Property, and fringe benefits, including social security taxes, unemployment insurance taxes, cost of providing coverage for disability benefits, cost of any pensions, hospitalization, welfare or retirement plans, or any other similar or like expenses incurred under the provisions of any collective bargaining agreement, or any other cost or expense which Landlord pays or incurs to provide benefits for employees so engaged in the operation, administration, maintenance and repair of the Property; the charges of any independent contractor who, under contract with Landlord or its representatives, does any of the work of operating, maintaining or repairing of the Property; legal and accounting expenses; and any other expense or charge, whether or not herein before mentioned, which in accordance with generally accepted accounting and management principles applicable to similar class buildings in the municipality in which the Property is located, would be considered as an expense of managing, operating, maintaining or repairing the Property. Except as expressly set forth in this Lease, Landlord, at its sole cost and expense, shall be responsible for all Operating Expenses related to the Property and Premises. The failure, to any extent and for any cause, to furnish services shall not render Landlord liable in any respect for damages to any person, property or business, shall not be construed as an eviction of Tenant or work an abatement of Rent, and shall not relieve Tenant from fulfillment of any covenant or agreement hereof Landlord shall use all reasonable diligence to restore such services as quickly as is possible under the circumstances.
9. **RESERVED.**
10. **RESERVED.**
11. **USE.** The Premises shall be used for the Permitted Uses and for no other purposes whatsoever. Tenant shall not do or permit to be done in or about the Premises, anything which is prohibited by

Laws or which will in any way obstruct or interfere with the rights of other tenants in the Building. Tenant will not allow any signs, cards or placards to be posted, or placed within the Premises such that they are visible outside of the Premises except as specifically provided for in this Lease. The Property shall be accessible to Tenant at all times except in the case of emergency, and Landlord may temporarily restrict access to the Premises to fulfill its obligations hereunder or its obligations to any other Tenant of the Building. Tenant shall not conduct or give notice of any auction, liquidation, or going out of business sale in the Premises. Tenant shall make any changes to the Premises and Building necessary to accommodate Tenant's employees with disabilities subject to Section 24 below. Tenant will not place a load upon any floor in the Premises exceeding the floor load per square foot of area which such floor was designed to carry or which is allowed by law. Tenant shall, at Tenant's sole cost and expense, make any changes necessary to bring the Premises into compliance with any Laws. The judgment of any court of competent jurisdiction or the admission by Tenant in an action or proceeding against Tenant, whether Landlord is a party thereto or not, that Tenant has violated any Laws in the use or occupancy of the Premises, Building or Property shall be conclusive of that fact as between Landlord and Tenant.

12. REPAIR & MAINTENANCE.

(a) Tenant will, throughout the Term and at its sole cost, keep and maintain the Premises and all of its fixtures and equipment located therein clean, safe and in good working order and make all necessary non-structural repairs and replacements thereto whether foreseen or unforeseen, including, but not limited to, replacing all burnt out light bulbs and ballasts and removing all garbage. If Tenant fails to maintain the Premises in compliance with the terms hereof, Landlord shall have the right to do such acts and expend such funds at the expense of Tenant as are reasonably required and Tenant shall reimburse Landlord for the cost thereof as Additional Rent upon demand (subject to the cure and notice period set forth in Section 25(a)(ii) hereof). If Tenant uses heat generating machines or equipment in the Premises that materially affect the temperature otherwise maintained by the heating, ventilating and air conditioning system or if Tenant uses electricity or other utilities in an amount that Landlord reasonably determines exceeds the normal use of electricity or other utility for a warm (i.e., room temperature) storage facility, Landlord reserves the right to charge Tenant for the actual cost of such electricity or other utility service, which amount(s) shall be paid by Tenant to Landlord as Additional Rent upon demand. Should Tenant require any additional service not provided by Landlord pursuant to this Lease (as evidenced by Tenant providing written request to Landlord), Landlord may, but shall not be obligated to, furnish such additional service and Tenant agrees to pay Landlord's charges therefor, including an administrative fee equal to fifteen percent (15%) of the cost thereof, any taxes imposed thereon, and, where appropriate, a reasonable allowance for depreciation of any systems being used to provide such service, as Additional Rent upon demand.

Tenant, at Tenant's expense, shall maintain at all times throughout the Term, a written service contract with a licensed, bonded professional pest and sanitation control service to perform inspection and services for the purposes of keeping the Premises constantly pest-free and vermin-free. Tenant agrees to cooperate fully in Landlord's pest control efforts including, but not limited to, (i) moving provisions, food stuffs and equipment during inspection and spraying by Landlord's exterminator, (ii) maintaining the Premises in a clean, trash-free (except as temporarily stored in trash receptacles) and sanitary condition, and (iii) allowing exterminator to perform inspections and/or spraying. In the event Tenant refuses or fails to satisfy its obligations set forth in this Paragraph, and such failure continues for a period of one (1) business day after notice from Landlord, then the Landlord may, but shall not be obligated to, take such actions on Tenant's behalf and bill the cost thereof to Tenant; and Tenant shall pay such cost to Landlord immediately upon

Landlord's demand as additional Rent. Landlord's right hereunder shall be cumulative and shall in no way restrict Landlord's other rights under the Lease or at law or in equity.

(b) Landlord shall, at its sole cost and expense, maintain the roof, foundation, exterior walls, concrete subflooring, plumbing, utilities to the main point of entry, and any Common Areas, provided that Landlord shall have no obligation to make any repairs unless Landlord has first received written notice of the need for such repairs from Tenant. Notwithstanding the foregoing, any damage occasioned by the acts or omissions of Tenant or any person claiming under Tenant, or contractors, agents, employees, invitees or visitors of Tenant or any such person (together "Tenant Parties"), shall be repaired by and at the sole expense of Tenant, except that Landlord shall have the right, at its sole option, to make such repairs and to charge Tenant for all costs and expenses incurred in connection therewith and Tenant shall pay the cost therefor as Additional Rent upon demand.

13. **SUBLEASE; ASSIGNMENT.** Tenant will not allow the Premises to be occupied by any other person, in whole or in part, and will neither sublet the Premises, in whole or in part, nor assign this Lease, in whole or in part, without in each case obtaining the express, prior written consent of Landlord. Tenant will not permit any transfer by operation of law of any interest in the Premises acquired through this Lease. The provisions of this Section shall apply to a transfer, by one or more transfers, of all, or substantially all, of the business or assets of Tenant, of a majority of the stock or partnership interests, or other evidences of ownership, of Tenant, and of any shares, voting rights or ownership interests of Tenant which results in a change in the identity of the entity or entities which exercise, or may exercise, effective control of Tenant as if such transfers were an assignment of this Lease. Landlord shall not unreasonably withhold, condition or delay its consent to Tenant's written request to sublease the Premises or assign this Lease provided Tenant has provided detailed written information about the proposed subtenant or assignee, the form of sublease or assignment (as the case may be) and the proposed use of the Premises, all in form and substance satisfactory to Landlord. Landlord's refusal to consent to any proposed sublease or assignment shall not be deemed unreasonable if (a) the net worth of the proposed subtenant or assignee, determined in accordance with generally accepted accounting principles, consistently applied, is less than the greater of the net worth of the Tenant on (i) the date of execution of this Lease, or (ii) the day immediately preceding the proposed effective date of such sublease or assignment, (b) Tenant is in default of any of the terms, covenants or conditions of this Lease beyond any applicable notice and cure period, or (c) the proposed use of the Premises will result in: (i) increased wear and tear on the Premises, the common facilities or adjacent parking; (ii) parking requirements in excess of those provided for by applicable zoning ordinances or which would tend to deprive other tenants in the Building of their required parking; (iii) public protests or picketing; or (iv) any adverse effect on other tenants in the Building or adjacent buildings. Landlord may require, as a condition to granting Landlord's consent with respect to the provisions of this Section, an assumption of the obligations under this Lease by the proposed transferee. Tenant shall pay all of Landlord's actual legal fees incurred by Landlord in reviewing each proposed assignment or sublease

No subletting, assignment or other transfer shall release Tenant from Tenant's obligations under this Lease or alter the primary liability of Tenant to pay the Rent and to perform all other obligations to be performed by Tenant hereunder. Landlord may accept Rent or performance of Tenant's obligations from any person other than Tenant pending approval or disapproval of an assignment or sublease. Neither a delay in the approval or disapproval of such assignment or sublease nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Landlord's right to exercise its remedies for any default by Tenant. Landlord's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting. In the event of any default by Tenant, Landlord may proceed directly against Tenant, any guarantor(s) of Tenant or anyone

else responsible for the performance of Tenant's obligations under this Lease, including any assignee or subtenant of Tenant, without first exhausting Landlord's remedies against any other person or entity responsible therefore to Landlord, or any security held by Landlord. Each request for consent to an assignment or sublease shall be in writing, accompanied by information relevant to Landlord's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or subtenant, including but not limited to the intended use and/or required modification of the Premises. If Tenant receives rent or other payments under any assignment or sublease in excess of the payments made by Tenant to Landlord under this Lease (as all such amounts are adjusted for any assignment or subletting of less than all of the Premises), then Tenant shall pay Landlord fifty percent (50%) of such excess, less the reasonable, out-of-pocket costs incurred by Tenant in connection with such assignment or subletting. The provisions of this Section shall apply to a transfer (by one or more transfers) of a majority of the stock or partnership interests, or other evidences of ownership of Tenant as if such transfer were an assignment of this Lease. Upon Landlord's receipt of a request from Tenant to sublet all of the Premises or assign all interest in this Lease, Landlord may elect to terminate this Lease, in which case the last day of the Term of this Lease shall be the 30th day after Landlord notifies Tenant of Landlord's election to terminate this Lease.

In the event of the transfer or assignment by Landlord of its interest in this Lease and/or in the Property, Landlord shall be released from any further obligations hereunder as of the date of such assignment, and Tenant agrees to look solely to such successor in interest of Landlord for performance of such obligations.

14. **LIENS.** If any mechanic's lien(s) or other lien(s) is placed upon the Premises or the Building (excluding any lien placed on Tenant's personal property) solely as a result of any work or act of Tenant or Tenant's agents, officers, or employees, Tenant shall, within ten (10) days after receiving written notice from Landlord of such lien, (i) cause the discharge of any such lien or (ii) file a bond, letter of credit, or other security sufficient to indemnify Landlord, the Premises, and the Building from and against such lien. This Section 14 shall survive the expiration or earlier termination of this Lease.
15. **INDEMNITY FOR ACCIDENTS; NON-LIABILITY OF LANDLORD.** Tenant shall indemnify, defend (with counsel approved by Landlord in its reasonable discretion), and hold harmless Landlord and its affiliates and their respective officers, directors, employees, agents and representatives (together, "Landlord Parties") and any mortgagee of the Property from and against any and all any claims, demands, actions, liabilities, causes, damages, losses and obligations of any nature (including, without limitation, attorneys' fees, expert fees, and litigation, oversight and response costs) (together, "Claims") that arise directly or indirectly from Tenant's use, possession, management, repair, maintenance or control of the Premises, any act or omission by Tenant or Tenant Parties or any default of Tenant under this Lease, except to the extent solely caused by the gross negligence or willful misconduct of Landlord or Landlord Parties.

Landlord shall not be liable for any damage occasioned by failure to keep the Premises, Building or Property in repair, nor for any damage done or occasioned by or from plumbing, gas, water, sprinkler, or other pipes or sewerage or the bursting, leaking or running of any pipes, tank or plumbing fixtures, in, above, upon or about the Premises or the Building nor from any damage occasioned by water, snow or ice being upon or coming through the roof, skylights, trap door or otherwise, nor for any damages arising from acts, or neglect of co-tenants or other occupants of the Building or of any owners or occupants of adjacent or contiguous property. Further, Landlord shall not be liable or responsible to Tenant for any loss or damage to any property or person occasioned

by theft or any other criminal act, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, law of requisition or order of any governmental authority.

Neither Landlord nor Tenant shall be liable in any event for incidental or consequential, special or punitive damages to Tenant by reason of any default by either party hereunder, whether or not Landlord or Tenant is notified that such damages may occur. Tenant shall have no right to terminate this Lease for any default by Landlord hereunder and no right, for any such default, to offset or counterclaim against any Rent due hereunder except for Abatement Events (defined below). Tenant, its successors and assigns, agrees it shall not assert nor seek to enforce any claim for breach of this Lease against any of Landlord's assets other than Landlord's equity interest in the Property and in the rents, issues and profits thereof, and Tenant agrees to look solely to such interest for the satisfaction of any liability of or claim against Landlord under this Lease, it being specifically agreed that in no event whatsoever shall Landlord (which term shall include, without limitation, any beneficiary of any trust of which Landlord is a trustee and any of Landlord's officers, directors, partners, shareholders, agents, attorneys and employees) ever be personally liable for any such liability. This Section 15 shall survive the expiration or earlier termination of this Lease.

An "Abatement Event" shall be defined as an event that prevents Tenant from using the Premises or any portion thereof, as a result of any failure to provide services or access to the Premises or an uncured default by Landlord of its obligations under this Lease, where (i) Tenant does not actually use the Premises or such portion thereof, and (ii) such event is not caused by the negligence or willful misconduct of Tenant or its contractors, officers, agents, employees, successors or assigns. Tenant shall give Landlord notice ("Abatement Notice") of any such Abatement Event, and if such Abatement Event continues beyond the Eligibility Period (as that term is defined below), then the Base Rent and Additional Rent shall be abated entirely or reduced, as the case may be, after expiration of the Eligibility Period for such time that Tenant continues to be so prevented from using, and does not use, the Premises or a portion thereof, in the proportion that the rentable area of the portion of the Premises that Tenant is prevented from using, and does not use, bears to the total rentable area of the Premises; provided, however, in the event that Tenant is prevented from using, and does not use, a portion of the Premises for a period of time in excess of the Eligibility Period and the remaining portion of the Premises is not sufficient to allow Tenant to effectively conduct its business therein, and if Tenant does not conduct its business from such remaining portion, then for such time after expiration of the Eligibility Period during which Tenant is so prevented from effectively conducting its business therein, the Base Rent and Additional Rent shall be abated entirely for such time as Tenant continues to be so prevented from using, and does not use, the Premises. If, however, Tenant reoccupies any portion of the Premises during such period, the Base Rent and Additional Rent allocable to such reoccupied portion, based on the proportion that the rentable area of such reoccupied portion of the Premises bears to the total rentable area of the Premises, shall be payable by Tenant from the date Tenant reoccupies such portion of the Premises. The term "Eligibility Period" shall mean a period of five (5) consecutive business days after Landlord's receipt of any Abatement Notice(s) and, in the case of an alleged breach of the Lease by Landlord, after the expiration of any applicable notice and cure period. Such right to abate Base Rent and Additional Rent shall be Tenant's sole and exclusive remedy at law or in equity for an Abatement Event. If a fire or other casualty results in Tenant's inability to use the Premises or a portion thereof, the terms and conditions of Section 21 below shall apply rather than this paragraph.

- 16. UTILITIES.** Landlord shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon except as specifically provided in this Lease. Landlord shall in no way be liable or responsible for any loss, damage, or expense that Tenant may sustain or incur by reason of any change, failure, interruption,

or defect in the supply or character of the utilities furnished to the Premises. To ensure the proper functioning and protection of all utilities, Tenant agrees to abide by all reasonable regulations and requirements which Landlord may prescribe and to allow Landlord and its utility providers access to all electric lines, feeders, risers, wiring, and any other machinery within the Premises. Tenant agrees, to cooperate with Landlord's reasonable directives to reduce utility consumption, including installation of new efficient energy equipment or the repair, replacement and maintenance of existing equipment (as the case may be). Notwithstanding Tenant's agreement to comply with Landlord's reasonable directives, if compliance with those directives requires the approval of the City Council, whether to appropriate funds necessary to carry out the directive or for some other reason, then Tenant shall only be required to cooperate with such directive if City Council, in its sole discretion, approves the required actions.

17. **ACCESS TO LEASED PREMISES.** Tenant will allow Landlord free access to the Premises (with or without notice) for the purpose of examining or exhibiting the same, or to make any needed repairs, or alterations thereof. Landlord shall use reasonable efforts to minimize interruption of or disturbance to the operation of Tenant's business.

18. **SURRENDER; HOLDING OVER.**

(a) **Surrender.** Upon the expiration of this Lease, or termination of this Lease, in any way, Tenant will surrender up the Premises to Landlord in substantially the same condition and repair that Premises were in as of the date hereof, excepting loss by fire or casualty, ordinary wear and tear, and any disrepair caused by Landlord not performing its maintenance, repair, and replacement obligations pursuant to the terms hereof excepted, which surrender and restoration obligation shall survive the expiration or earlier termination of this Lease.

(b) **Holding Over.** Tenant has the right to remain in the Premises following the Expiration Date on a month-to-month basis for a period not to exceed six (6) months. During such period, all terms and conditions of the Lease shall continue to apply, except that Base Rent shall be \$13,104.42 per month. Thereafter, if Tenant remains in possession for any additional period of time with Landlord's prior written consent, Base Rent shall increase each year on November 1 by three percent (3%). In the event Tenant or any party claiming under Tenant remains in possession of the Premises or any part thereof after the expiration or earlier termination of this Lease without Landlord's prior written consent, such occupancy shall be a tenancy-at-sufferance and the Base Rent shall be equal to one hundred fifty percent (150%) of the Base Rent applicable during the last rental period of the term under this Lease, and the tenancy shall otherwise be subject to all the conditions, provisions and obligations of this Lease, adjusted as necessary or appropriate to make the same applicable to a tenancy-at-sufferance.

19. **NO RENT DEDUCTION OR SET OFF.** Tenant agrees that any Claim by Tenant against Landlord shall not be deducted from Rent nor set off against any Claim for Rent in any action, except for any Abatement Event. No payment by Tenant or receipt by Landlord of a lesser amount than the Rent herein stipulated shall be deemed to be other than on account of the earliest stipulated Rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any remedy provided in this Lease or at Laws.

20. **LITIGATION.** In the unlikely event of any litigation between the parties hereto involving the terms of this Lease or the breach or enforcement hereof, the prevailing party in any final non-appealable action shall be entitled to recover all of its actual legal fees, professional fees and other

costs and expenses incurred in connection therewith. This Section 20 shall survive the expiration or earlier termination of this Lease.

21. UNTENANTABILITY.

(a) A "Total Loss" shall be deemed to have occurred if (i) the Building is so damaged by fire or other casualty that the estimated cost to repair same amounts to fifty percent (50%) or more of the total estimated construction cost of the entire Building; (ii) the Building is so damaged by fire or other casualty that Landlord, in its sole discretion, decides not to restore the same; or (iii) the Premises or Building is damaged by fire or other casualty during the last twelve (12) months of the Term hereof. Any other casualty loss not amounting to a Total Loss shall be deemed a "Partial Loss".

(b) In the event of a Total Loss, Landlord may terminate this Lease by written notice to Tenant within one hundred twenty (120) days after the date of such fire or other casualty. Rent shall be apportioned on a per diem basis and paid to the date of such fire or other casualty. Alternatively, if Landlord decides to rebuild and restore the Property following a Total Loss this Lease shall not terminate and Landlord shall repair and restore the Premises at Landlord's expense and with due diligence, subject, however, to (x) reasonable delays for insurance adjustments and (y) delays caused by forces beyond Landlord's control. Rent shall abate on a per diem basis during the period of construction and repair. Tenant shall permit Landlord and its contractors to have free access to the Premises to perform such work.

(c) In the event of a Partial Loss, provided Landlord recovers sufficient insurance proceeds and Landlord's mortgagee agrees to the restoration, Landlord shall be required to proceed with reasonable due diligence to repair and restore the Premises, subject, however, to (i) reasonable delays for insurance adjustments and (ii) delays caused by forces beyond Landlord's control. Rent shall abate in proportion to the non-usability of the Premises (as determined by Landlord) during the period while repairs are in progress. Tenant shall permit Landlord and its contractors to have free access to the Premises to perform such work.

(d) Notwithstanding anything to the contrary in this Lease, if a Partial Loss or Total Loss was caused by the acts or omissions of Tenant or Tenant Parties, Tenant shall be solely responsible for the payment of any insurance deductible as Additional Rent within thirty (30) days after Landlord's delivery of an invoice therefor.

22. SUBORDINATION: ESTOPPEL LETTERS. This Lease is expressly subordinate to any current or future mortgage or mortgages placed on the Property together with all other documents requested by Landlord's mortgagee in connection with any such mortgage. Within ten (10) business days after notice by Landlord, Tenant shall execute a confirmation of the subordination of this Lease to any current or future mortgage or mortgages placed on the Property by Landlord and other documents in customary form requested by Landlord's mortgagee

Tenant agrees that from time to time, it will deliver to Landlord or its designee within ten (10) days of the date of Landlord's request, a statement, in writing, certifying (i) that this Lease is unmodified and in full force and effect, if this is so, (or if there have been modifications that the Lease, as modified, is in full force and effect); (ii) the dates to which rent and other charges have been paid; (iii) that Landlord is not in default under any provisions of this Lease or, if in default, the nature thereof in detail; and (iv) such other true statements as Landlord may require.

23. **SIGNS.** Tenant, at Tenant's own sole expense, may place a sign identifying Tenant above the front entrance to the Premises; provided, however, that Tenant shall have first obtained the prior written approval of the plans for such sign from Landlord and the design of such sign shall be strictly in accordance with the approved plans. Such sign shall comply with all Laws. Throughout the Term, Tenant shall be responsible, at Tenant's own sole expense, for the maintenance and repair of such sign in good condition and repair. Upon termination of this Lease, Tenant, at Tenant's sole cost and expense, shall remove such sign and restore the Premises and any affected portions of the Building to their original condition ordinary wear and tear excepted, which restoration obligation shall survive the expiration or earlier termination of this Lease. In the event Landlord chooses to upgrade the existing Tenant signage (including the actual sign fixtures and letterings), Tenant agrees to pay Landlord for such upgrades. The sign rights granted to Tenant in this Section 23 are personal to the Tenant named herein and may not be exercised by any other party, including, without limitation, any assignee of Tenant.
24. **ALTERATIONS.** Tenant shall not at any time during the Term of this Lease make any alterations, additions or improvements to the Premises (together, "**Alterations**") without the express, written, prior consent of Landlord in its sole discretion. In each instance where Landlord's approval is required, Tenant shall reimburse Landlord for all reasonable out of pocket costs and expenses incurred in such review regardless of whether the request is approved. All Alterations shall remain upon and be surrendered with the Premises and become the property of Landlord upon the expiration or earlier termination of this Lease, unless Landlord requests their removal at any time, in which event Tenant shall remove the same and restore the Premises to its original condition at Tenant's expense. If Tenant fails to remove the Alterations that Landlord requires Tenant to remove, such property shall be deemed abandoned and at the option of Landlord shall become the property of Landlord or be removed by Landlord at Tenant's expense plus fifteen percent (15%) of the cost thereof, which obligation shall survive the expiration or earlier termination of this Lease. Landlord's approval of any Alterations or the plans therefor shall not constitute a representation or warranty by Landlord, nor Landlord's acceptance, that the same comply with sound architectural and/or engineering practices or with any Laws. All Alterations shall be performed in a good and workmanlike manner, in compliance with all Laws (including obtaining all permits before the commencement thereof), and in such manner as to cause a minimum of interference with the use of the Property by Landlord and/or other tenants of the Building. Tenant shall give Landlord written notice at least ten (10) days prior to the commencement of any Alterations.

Plans or drawings for Alterations affecting the mechanical, electrical or plumbing systems or structural components of the Building or any other component of the Premises that is subject to a warranty shall be designed by an engineer preapproved in writing by Landlord in its sole discretion and, at Landlord's option, be performed by Landlord's contractor at Tenant's expense. All venting, opening, sealing, waterproofing or altering of the roof, if any, shall be performed by Landlord's roofing contractor at Tenant's expense. Tenant shall make no marks, cuts or penetrations into the roof, upper floor decks, exterior walls, or floors unless preapproved in writing by Landlord in its sole discretion. All Alterations shall be performed by licensed and bonded contractors and subcontractors preapproved in writing by Landlord in its sole discretion. If any Alterations reasonably require Tenant to engage an architect, such architect shall be licensed and preapproved in writing by Landlord in its sole discretion. Tenant shall cause its contractors and subcontractors to maintain during performance of any Alterations the insurance required by Landlord. Landlord shall have the right to require Tenant to obtain and deliver to Landlord a performance and labor and material payment bond covering any Alterations, naming Landlord as an additional beneficiary and in a form and issued by a surety company preapproved in writing by Landlord in its sole discretion. Tenant shall use only new materials for any Alterations. Landlord may, at its election, require an inspection of any aspect of any Alterations, and Tenant shall cooperate with any such

inspection procedure. No approval from Landlord with respect to any aspect of any Alterations shall be valid unless in writing.

25. EVENTS OF DEFAULT; REMEDIES.

(a) In addition to any other acts or omissions herein deemed to be defaults by Tenant, each of the following shall constitute an "Event of Default" by Tenant hereunder: (i) the failure to make any payment of Rent or any installment thereof or to pay any other sum required to be paid by Tenant under this Lease or under the terms of any other agreement between Landlord and Tenant and the continuance of such failure for more than three (3) calendar days following the delivery of written notice from Landlord to Tenant; provided, however, if, on two (2) occasions during any consecutive twelve (12) month period during the Term, Tenant fails to pay any installment of Rent when due but does pay the same within three (3) calendar days after notice of such failure, then Tenant's subsequent failure to pay any installment of Rent when due during said twelve (12) month period shall constitute an Event of Default hereunder without the need for notice and/or a grace period; (ii) the failure to observe or perform any of the other covenants or conditions in this Lease which Tenant is required to observe and perform and which Tenant has not corrected within twenty (20) days after written notice thereof to Tenant; provided, however, that if said failure involves the creation of a condition which, in Landlord's reasonable judgment, is dangerous or hazardous, Tenant shall be required to cure same within 24 hours following written notice to Tenant; (iii) the use or occupancy of the Premises for any purpose other than the Permitted Uses without Landlord's prior written consent or the conduct of any activity in the Premises which constitutes a violation of Laws; (iv) if the interest of Tenant or any part thereof under this Lease shall be levied on under execution or other legal process and said interest shall not have been cleared by said levy or execution within fifteen (15) days from the date thereof; (v) if any voluntary or involuntary petition in bankruptcy or for corporate reorganization or any similar relief shall be filed by or against Tenant or if a receiver shall be appointed for Tenant or any of the property of Tenant; (vi) if Tenant or any guarantor of the Lease shall make an assignment for the benefit of creditors or if Tenant shall admit in writing its inability to meet Tenant's debts as they mature; (vii) if Tenant shall abandon the Premises during the Term; (viii) if Tenant shall fail to immediately discharge or bond over any lien placed upon the Premises in violation of this Lease; or (ix) if Tenant shall fail to execute and deliver an estoppel certificate or subordination agreement as required hereunder.

(b) Upon the occurrence of an Event of Default by Tenant, Landlord may, at its option, with or without notice or demand of any kind to Tenant or any other person, exercise any one or more of the following described remedies, in addition to all other rights and remedies provided at law, in equity or elsewhere herein, and such rights and remedies shall be cumulative and none shall exclude any other right allowed by law:

(i) Landlord may terminate this Lease, repossess and re-let the Premises, and upon such termination Landlord shall be entitled to recover as damages (in addition to any other sums or damages for which Tenant may be liable to Landlord) those damages permitted under California Civil Code Section 1951.2, specifically:

- (1) The worth at the time of award of the unpaid Rent which had been earned at the time of termination;
- (2) The worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided;

- (3) Subject to subdivision California Civil Code Section 1951.2(c), 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 such rental loss that Tenant proves could be reasonably avoided; and
- (4) Any other amount necessary to compensate the Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under the Lease or which in the ordinary course of things would be likely to result therefrom.

The "worth at the time of award" of the amounts referred to in clauses (1) and (2) above is computed by allowing interest at the lesser of ten percent (10%) per annum or the highest rate permitted by law. The worth at the time of award of the amount referred to in clause (3) is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

- (ii) Landlord may, without terminating the Lease, repossess the Premises, including, without limitation, removing all or any part of Tenant's personal property in the Premises and to place such personal property in storage or a public warehouse at the expense and risk of Tenant, and relet the same for the account of Tenant for such rent and upon such terms as shall be satisfactory to Landlord. For the purpose of such reletting, Landlord is authorized to decorate, repair, remodel or alter the Premises. Tenant shall pay to Landlord as damages all amounts permitted by applicable law. If the Premises are relet, Tenant shall be responsible for payment upon demand to Landlord of any deficiency between the Rent as relet and the Rent for the balance of this Lease, all costs and expenses of reletting and all reasonable decoration, repairs, remodeling, alterations, additions and collection of the rent accruing therefrom. Tenant shall not be entitled to any rents received by Landlord in excess of the Rent provided for in this Lease. No re-entry or taking possession of the Premises by Landlord shall be construed as an election to terminate this Lease unless a written notice of such intention be given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for any breach, and in addition to the other remedies it may have, may recover from Tenant all damages permitted by law. In the event Landlord repossesses the Premises as provided above, Landlord may remove all persons and property from the Premises and store any such property at the cost of Tenant, without liability or damage; and
- (iii) Landlord may, but shall not be obligated so to do, and without waiving or releasing Tenant from any obligations of Tenant hereunder, make any payment or perform such other act on Tenant's part to be made or performed as provided in this Lease. All sums so paid by Landlord and all necessary incidental costs shall be payable to Landlord as Additional Rent on demand and Tenant covenants to pay such sums.

(c) Tenant agrees that Landlord may file suit to recover any sums falling due under the terms of this Section from time to time and that no suit or recovery of any portion due Landlord hereunder shall be any defense to any subsequent action brought for any amount not theretofore reduced to judgment in favor of Landlord.

(d) In the event of any Event of Default by Tenant, Tenant shall promptly pay upon notice, as Additional Rent, all costs, charges and expenses incurred by Landlord (including, without limitation, reasonable fees and out-of-pocket expenses of legal counsel, collection agents, and other third parties retained by Landlord) together with interest thereon at the rate set forth in Section 5 of this Lease, in collecting any amount due from Tenant, enforcing any obligation of Tenant hereunder, or preserving any rights or remedies of Landlord; and Tenant shall pay all reasonable attorneys' fees and expenses arising out of any litigation, negotiation or transaction in which Tenant causes Landlord, without Landlord's fault, to become involved or concerned.

(e) No waiver of any provision of this Lease shall be implied by any failure of Landlord to enforce any remedy on account of the violation of such provision, even if such violation be continued or repeated subsequently, and no express waiver by Landlord shall be valid unless in writing and shall not affect any provision other than the one specified in such written waiver and that provision only for the time and in the manner specifically stated in the waiver. No receipt of monies by Landlord from Tenant after the termination of this Lease shall in any way alter the length of the Term or Tenant's right of possession hereunder or after the giving of any notice shall reinstate, continue or extend the Term or affect any notice given Tenant prior to the receipt of such monies, it being agreed that after the service of notice or the commencement of a suit or after final judgment for possession of the Premises, Landlord may receive and collect any Rent due, and the payment of Rent shall not waive or affect said notice, suit or judgment. Landlord shall not be required to serve Tenant with any notices or demands as a prerequisite to its exercise of any of its rights or remedies under this Lease, other than those notices and demands specifically required under this Lease.

(f) In the event of any default by Landlord, Tenant will give Landlord written notice specifying such default with particularity, and Landlord shall thereupon have thirty (30) days (or such longer period as may be required under the circumstances) in which to commence to cure any such default. Unless and until Landlord fails to commence to cure any default after such notice, Tenant shall not have any remedy or cause of action by reason thereof. All obligations of Landlord hereunder will be construed as covenants, not conditions.

26. **NOTICES.** All notices permitted or required hereunder shall be (i) delivered personally, (ii) sent by U.S. Certified Mail, postage prepaid, with return receipt requested, or (iii) by nationally recognized overnight courier and sent to the respective parties at the notice addresses provided in Section 1 of this Lease. If mailed, such notice shall be considered received by the addressee on the second (2nd) business day after posting into the United States mail. If sent by nationally recognized overnight courier, such notice shall be considered received by the addressee on the first (1st) business day after deposit with the courier. Any notice from Landlord to Tenant will also be deemed to have been given if delivered to the Premises, addressed to Tenant.
27. **EMINENT DOMAIN.** If during the Term, (a) the whole of the Premises or the Building shall be taken by any governmental or other authority having powers of eminent domain (or conveyed to such entity under threat of the exercise of such power) or (b) any part of the Premises or the Building shall be so taken or conveyed and as a result, the remainder of the Premises or the Building has been rendered impractical, in Landlord's sole judgment, for the operation of Landlord's rental activities on the Property, Landlord shall have the right, but not the obligation, to terminate this Lease on the date of the taking (or conveyance), and if this Lease is not terminated, Rent shall be equitably adjusted by Landlord. Subject to the rights of mortgagees, Tenant shall receive the fair market value of its leasehold interest under this Lease for the remaining Term and the value of its loss of goodwill, if any, awarded by the taking authority. Landlord shall have no liability to Tenant for any award not provided by the taking authority.

28. **QUIET ENJOYMENT.** Provided that Tenant shall have complied with all of its covenants under this Lease and shall not otherwise be in default hereunder, Tenant shall have the right to lawfully, peaceably and quietly occupy the Premises during the Term of this Lease without hindrance or eviction from Landlord subject to the terms and provisions of the Lease.
29. **LAWS, RULES AND REGULATIONS.** Tenant agrees to comply with (and cause Tenant Parties to comply with) all Laws, any matters of record and the rules and regulations attached hereto as Exhibit B and made a part hereof and with such modifications thereof and additions thereto as Landlord may from time to time make in its sole discretion. Landlord shall not be liable for any violation of said rules and regulations by other tenants or occupants of the Building or Property. In the event of any conflict between the terms and conditions of this Lease and the rules and regulations, the terms and conditions of this Lease shall govern.
30. **ENVIRONMENTAL RESTRICTIONS.** Tenant shall not permit any Hazardous Substances to be brought into the Premises except that incidental amounts of cleaning solutions and office equipment that are or contain Hazardous Substances may be used or handled on the Premises, provided such Hazardous Substance are in de minimis amounts, are necessary for the Permitted Use and are handled, stored and disposed of in compliance with all Laws at all times. If any such Hazardous Substance is so brought by Tenant Parties, Tenant shall (i) immediately notify Landlord thereof and, at Landlord's sole election, (a) the same shall be immediately remediated by Tenant as required by Laws at Tenant's sole cost or (b) Landlord shall cause such remediation, and Tenant shall reimburse Landlord for the cost thereof plus an Administrative Fee within fifteen (15) days after Landlord's demand therefor, and (ii) indemnify, defend and hold harmless Landlord Parties from any Claims arising therefrom, which obligations shall survive the expiration or earlier termination of this Lease. Tenant shall immediately notify Landlord of any inquiry, test, investigation or enforcement proceeding by or against Tenant or the Premise, or the Property known to Tenant concerning any Hazardous Substances. Tenant agrees that Landlord, as the owner of the Property, as Landlord's election, shall have the right, at Tenant's expense, to negotiate, defend, approve and appeal any action taken, or order issued, with regard to Hazardous Substances by any governmental authority. For the purpose of this Lease, "Hazardous Substances" means any chemicals, pollutants, contaminants, toxic or hazardous wastes, or any other substances, the use, sale, listing, generation, treatment, storage, transport, disposal, release, removal or other management of which is restricted, prohibited, regulated or penalized by Laws. This Section 30 shall survive the expiration or earlier termination of this Lease.
31. **RESERVED.**
32. **BROKERS.** Each party warrants that it has had no dealing with any broker or agent in connection with this Lease other than the brokers listed in Section 1, if any, and agrees to indemnify, defend and hold the other party harmless from and against any Claims by any other broker, agent or other person claiming a commission or other form of compensation by virtue of having dealt with the indemnifying party with regard to this Lease. This Section 32 shall survive the expiration or earlier termination of this Lease.
33. **MISCELLANEOUS.**
- (a) Time is of the essence of this Lease and each of its provisions.
- (b) This Lease and all covenants and agreements herein contained shall be binding upon, apply, and inure to the respective heirs, executors, successors, administrators, and assigns of all parties to this Lease; provided, however, that this Lease shall not inure to the benefit of any assignee, heir,

administrator, devisee, legal representative, successor, transferee or successor of Tenant except upon the prior written consent of Landlord.

(c) This Lease contains the entire agreement of the parties, all other and prior representations, negotiations and agreements having been merged herein and extinguished hereby. No modification, waiver or amendment of this Lease or of any of its conditions or provisions shall be binding upon either party hereto unless in writing signed by both parties.

(d) The captions of sections and subsections are for convenience only and shall not be deemed to limit, construe, affect or alter the meaning of such sections or subsections.

(e) Interpretation of this Lease shall be governed by the Laws of the State of California. Landlord and Tenant agree to submit to the exclusive jurisdiction and venue of the state or federal courts located in the within the county in which the Premises is located with respect to any controversy related to this Lease.

(f) In the event that either party thereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive government laws or regulations, riots, insurrection, war or other reason of a like nature not at the fault of the party delayed in performing work or doing as required under the terms of this Lease, than performance of such act shall be excused for the period of delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this subsection shall not operate to excuse Tenant from the prompt payment of Rent or any other payments required under the terms of this Lease, except for Abatement Events.

This Lease shall not be effective, and no leasehold shall be deemed or construed to have been created, until such time as this Lease has been fully executed by both Landlord and Tenant, and a fully executed original has been delivered from Landlord to Tenant. Delivery to Tenant of drafts of this Lease by Landlord or agents of Landlord shall in no way constitute the making of an offer to lease, or any other offer, by Landlord to Tenant, and Landlord shall not be bound by any terms or provisions set forth in such drafts even if the draft in question was prepared by Landlord or its agents, nor shall Landlord or Tenant have any duty to negotiate or any other duty, express or implied, unless and until the same has been duly executed and delivered by both Landlord and Tenant. This Lease may be executed in counterparts, each of which shall be an original, and all of which together shall be a single instrument. This Lease may be executed by a party's signature transmitted by fax or email. This Lease shall not be construed as if it had been prepared by one of the parties. The provisions of this Lease shall be considered separable such that if any provision or part of this Lease is ever held to be invalid, all remaining provisions of this Lease shall remain in full force and effect to the maximum extent permitted by law.

(g) If Tenant is an entity, Tenant represents and warrants that (i) Tenant has been duly organized, is validly existing and is in good standing in the State of its organization and the State of California and shall continue to be so until the end of the Term; and (ii) the persons executing this Lease on Tenant's behalf have been duly authorized by all necessary action to execute the same, and that upon the execution hereof this Lease shall be the valid and binding obligation of Tenant.

(h) Tenant represents and warrants that none of Tenant Parties, and none of their respective employees, officers, directors, representatives or agents is, nor will they become, a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of Office of Foreign Asset Control of the Department of the Treasury ("OFAC") (including those named on

OFAC's Specially Designated and Blocked Persons List) or under any Laws (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and will not assign this Lease to, contract with or otherwise engage in any dealings or transactions or be otherwise associated with such persons or entities.

(i) A final determination by a court of competent jurisdiction that any provision of this Lease is invalid shall not affect the validity of any other provision, and any provision so determined to be invalid shall, to the extent possible, be construed to accomplish its intended effect.

34. **PARKING.** Tenant, at no additional cost or expense, shall be entitled to the non-exclusive use, on a first come-first serve basis, of the parking spaces in parking areas designated by Landlord. Landlord may grant other occupants or tenants of the Building the right to use parking spaces, and Landlord shall not be obligated to enforce parking limitations imposed on other tenants. If Tenant uses parking in excess of that provided for herein, then such excess use shall constitute an Event of Default under this Lease, provided, however, more than one such Event of Default shall be an uncurable Event of Default.
35. **CERTAIN RIGHTS RESERVED TO LANDLORD.** Landlord reserves the following rights, each of which Landlord may exercise without notice to Tenant and without liability to Tenant, and the exercise of any such rights shall not be deemed to constitute an eviction or disturbance of Tenant's use or possession of the Premises and shall not give rise to any claim for set-off or abatement of rent or any other claim, provided that the rights are exercised in such a manner that they do not substantially impair or prohibit Tenant's use and occupancy of the Premises for the Permitted Use: (a) to change the name or street address of the Building or the suite number of the Premises; (b) to install, affix and maintain any and all signs on the exterior or interior of the Building; (c) to make repairs, decorations, alterations, additions or improvements, whether structural or otherwise, in and about the Building or the Common Areas, and for such purposes to enter upon the Premises, temporarily close doors, corridors and other areas of the Building and interrupt or temporarily suspend services or use of Common Areas, and Tenant agrees to pay Landlord for overtime and similar expenses incurred if such work is done other than during ordinary business hours at Tenant's request; (d) to retain at all times, and to use in appropriate instances, keys to all doors within and into the Premises; (e) to grant to any person or to reserve unto itself the exclusive right to conduct any business or render any service in the Building; (f) to show or inspect the Premises at reasonable times and, if vacated or abandoned, to prepare the Premises for reoccupancy; (g) to install, use and maintain in and through the Premises pipes, conduits, wires and ducts serving the Building, provided that such installation, use and maintenance does not unreasonably interfere with Tenant's use of the Premises; (h) to take any other action which Landlord deems reasonable in connection with the operation, maintenance, marketing or preservation of the Building; and (i) to approve the weight, size and location of safes or other heavy equipment or articles, which articles may be located in the Premises or moved in, about or out of the Building or Premises only at such times and in such manner as Landlord shall direct, at Tenant's sole risk and responsibility.
36. **SHORT FORM LEASE.** Tenant shall not record this Lease without the prior written consent of Landlord. Tenant, upon the request of Landlord, shall execute and acknowledge a short form memorandum of this Lease for recording purposes.
37. **RESERVED.**

38. **CALIFORNIA LAW.** Notwithstanding anything to the contrary contained elsewhere in the Lease, the following provisions concerning California law are incorporated herein and shall survive the expiration or earlier termination of this Lease:

Liens. In the event that Tenant shall cause any liens to be placed on the Premises, Landlord may, within five (5) business days of notice to Tenant, and without waiving its rights based on such breach, in addition to any other remedies, record a bond pursuant to applicable law and all amounts incurred by Landlord in so doing shall become immediately due and payable by Tenant to Landlord as Additional Rent.

Assignment and Subletting. If Tenant claims that Landlord has unreasonably withheld or delayed its consent to any proposed assignment or subletting, Tenant's sole remedies shall be a declaratory judgment and an injunction for the relief sought without any monetary damages, and Tenant hereby waives the provisions of Civil Code § 1995.310.

Holding Over. If this Lease is terminated by reason of an Event of Default and Tenant or any party claiming under Tenant remain in possession of the Premise, then in addition to any rights of Landlord hereunder, Landlord shall be entitled to all remedies available to Landlord under Civil Code § 1954.05.

Notice. Tenant hereby agrees that service of notice in accordance with the terms of the Lease shall be in lieu of the methods of service specified in Code of Civil Procedure § 1161. The provisions of Code of Civil Procedure § 1013, extending the time within which a right may be exercised or an act may be done, shall not apply to a notice given pursuant to this Lease.

Hazardous Substances. Landlord hereby notifies Tenant, and Tenant hereby acknowledges that, prior to the leasing of the Premises pursuant to this Lease, Tenant has been notified, pursuant to Health and Safety Code § 25359.7 (or any successor statute), that Landlord knows, or has reasonable cause to believe, that certain hazardous substances (as such term is used in such Section 25359.7), such as common cleaning supplies, office supplies, spillage of petroleum from motor vehicles, and other consumer products, may have come to be located on or beneath the Premises.

Certified Access Specialist Inspection. Landlord informs Tenant that the Property has not undergone inspection by a Certified Access Specialist (as further defined by Laws, a "CASp") and provides the following notification to Tenant:

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

If Tenant desires to perform a CASp inspection of the Premises, Tenant shall, at its cost, retain a CASp approved by Landlord to perform such inspection subject to the Rules. Tenant shall provide Landlord a copy of the CASp Report, and Tenant shall, at its cost, promptly complete any

modifications necessary to the Property identified in the CASp Report, which modifications will be completed as an Alteration, as applicable. Tenant agrees to keep the information in the CASp Report confidential except as necessary for Tenant to complete such modifications. Any ADA-compliance work in the Common Area (whether identified in the CASp Report or otherwise required by the City) shall be performed by Landlord, and Tenant shall reimburse Landlord for the cost thereof, plus fifteen percent (15%) of the cost thereof, within thirty (30) days after Landlord's delivery of an invoice therefor

Tenant Utility Usage Reporting Data. Within ten (10) days after Landlord's written request thereof, Tenant shall provide Landlord with copies of any and all bills received by Tenant with respect to a period of up to eighteen (18) months prior to the date of Landlord's request thereof from electricity, natural gas or similar utility providers relating to utility usage at the Premises. Tenant authorizes Landlord to obtain copies of such bills directly from such utility providers, and Tenant authorizes each such utility provider to provide such bills and related utility usage information for the Premises directly to Landlord. From time to time within ten (10) days after Landlord's written request, Tenant shall execute and deliver to Landlord further assurances requested by Landlord authorizing such utility providers to provide to Landlord such bills and other information relating to utility usage at the Premises.

Single-User Toilet Facilities. If any Alterations or other improvements by Tenant include any "single-user toilet facilities" (as defined by Health and Safety Code § 118600(c)), then such facilities shall, at Tenant's expense, (i) be identified by Tenant, as all-gender toilet facilities, (ii) be designated for use by no more than one (1) occupant at a time or for family or assisted use, and (iii) shall otherwise comply with all Laws, including, without limitation, Health and Safety Code § 118600, et seq., Title 24 of the California Code of Regulations, and any other specifications required by Laws.

Illicit Drugs. Tenant agrees that the manufacture, cultivation, sale, use, trade or possession of any drugs or other substance in violation of the Laws of the United States of America in or around the Premises shall be a material breach of this Lease (without any applicable notice and cure period) notwithstanding that any Laws of the State where the Premises is located permits the manufacture, cultivation, sale, use, trade or possession of such drugs or other substances for recreational or medicinal purposes, including without limitation, cannabis, cannabinoids or any derivatives thereof.

Non-Discrimination. Tenant shall not, and shall cause Tenant Parties to not, discriminate against any persons on account of race, color, national origin, ancestry, creed, religion, gender, gender identity, gender expression, sexual orientation, genetic information, marital status, familial status, age, source of income, immigration status, citizenship, primary language, handicap, disability or any other protected classification under Laws with respect to (i) anyone entering the Premises, (ii) any sublessees or assignees or (iii) any vendor providing services to Tenant.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as an instrument under seal as of the day and date first written above.

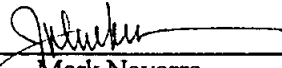
TENANT:

CITY OF SAN DIEGO,
a California municipal corporation

By: 
Name: _____
Title: _____

LANDLORD:

1401-85 E, LP,
a California limited partnership

By: 
Name: Mark Navarra
Title: Authorized Agent

THIS LEASE IS APPROVED AS TO FORM:

This 29th day of November, 2021

MARA W. ELLIOTT, City Attorney

By: 
Deputy City Attorney

EXHIBIT A **LEASED PREMISES**

BOMA SUMMARY

	LEVEL 1	TOTAL
GROSS BUILDING AREA	25,273 SF	25,273 SF
GROSS MEASUREMENT AREA	25,273 SF	25,273 SF
VERTICAL PENETRATION	0 SF	0 SF
BUILDING SERVICES AREA	0 SF	0 SF
FLOOR COMMON AREA	0 SF	0 SF
LEASABLE AREA		
843 14TH STREET	4,813 SF	4,813 SF
847 14TH STREET	3,222 SF	3,222 SF
1494 E STREET	8,370 SF	8,370 SF
1429 E STREET	8,313 SF	8,313 SF
1438 E STREET	8,273 SF	8,273 SF
1421 E STREET	8,388 SF	8,388 SF
1483 E STREET	28,523 SF	28,523 SF
OVERALL OCCUPANT AREA	55,877 SF	55,877 SF

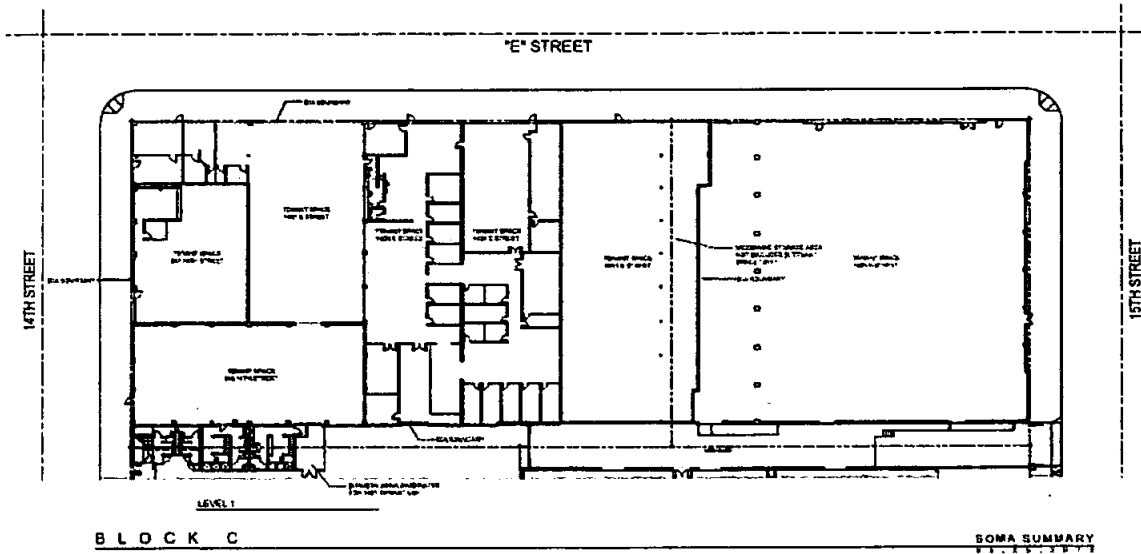
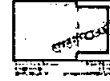


EXHIBIT B

RULES AND REGULATIONS

1. The water and wash closets and other plumbing fixtures shall not be used for any purposes other than those for which they were constructed, and no sweepings, rubbish, rags or other substances (including, without limitation, coffee grounds) shall be thrown therein. All damages resulting from misuse of the fixtures shall be borne by Tenant if Tenant or its servants, employees, agents, visitors or licensees shall have caused the same.
2. No cooking (except for hot-plate and microwave cooking by Tenants' employees for their own consumption, the location and equipment of which is first approved by Landlord), sleeping or lodging shall be permitted by any tenant on the Premises. No tenant shall cause or permit any unusual or objectionable odors to be produced upon or permeate from the Premises.
3. Except as otherwise provided in the Lease, no inflammable, combustible, or explosive fluid, material, chemical or substance shall be brought or kept upon, in or about the Premises. Fire protection devices, in and about the Building, shall not be obstructed or encumbered in any way. No controlled substances, as defined in the Controlled Substances Act, as amended, shall be brought or kept upon, in or about the Premises.
4. Canvassing, soliciting and peddling in the Building is prohibited and each tenant shall cooperate to prevent the same.
5. There shall not be used in any space, or in the public halls of the Building, either by any tenant or by its agents, contractors, jobbers or others, in the delivery or receipt of merchandise, freight, or other matters, any hand trucks or other means of conveyance except those equipped with rubber tires, rubber side guards, and such other safeguards as Landlord may require, and Tenant shall be responsible to Landlord for any loss or damage resulting from any deliveries to Tenant in the Building. Deliveries of mail, freight or bulky packages shall be made through the freight entrance or through doors specified by Landlord for such purpose.
6. Mats, trash or other objects shall not be placed in the public corridors. The sidewalks, entries, passages, elevators, public corridors and staircases and other parts of the Building which are not occupied by Tenant shall not be obstructed or used for any other purpose than ingress or egress.
7. Tenant shall not install or permit the installation of any awnings, shades, draperies and/or other similar window coverings, treatments or like items visible from the exterior of the Premises other than those approved by the Landlord in writing.
8. Tenant shall not construct, maintain, use or operate within said Premises or elsewhere in the Building or on the outside of the Building, any equipment or machinery which produces music, sound or noise which is audible beyond the Premises, except for air compressor in compliance with applicable laws, local noise ordinances and without interfering with the implied warranty of quiet enjoyment owed to other tenants of the Property.
9. Bicycles, motor scooters or any other type of vehicle shall not be brought into the lobby or elevators of the Building or into the Premises except for those vehicles which are used by a physically disabled person in the Premises.
10. All blinds for exterior windows shall be building standard and shall be maintained by Tenant.

11. No additional locks shall be placed upon doors to or within the Premises except as shall be necessary adequately to safeguard United States Government security classified documents stored with the Premises. The doors leading to the corridors or main hall shall be kept closed during business hours, except as the same may be used for ingress or egress.
12. Landlord reserves the right to temporarily shut down the air conditioning, electrical systems, heating, plumbing and/or elevators when necessary by reason of accident or emergency, or for repair, alterations, replacements or improvement.
13. No carpet, rug or other article shall be hung or shaken out of any window of the Building and Tenant shall not sweep or throw or permit to be swept or thrown from the Premises any dirt or other substances into any of the corridors or halls, elevator, or out of the doors or windows or stairways of the Building. Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance in the Premises, or permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Building by reason of noise, odors and/or vibrations, or interfere in any way with other tenants or those having business therein, nor shall any animals or birds be kept in or about the Building. Smoking or carrying lighted cigars or cigarettes in the elevators of the Building is prohibited.
14. Landlord reserves the right to exclude from the Building on weekdays between the hours of 6:00 p.m. and 8:00 a.m. and at all hours on weekends and legal holidays, all persons who do not present a pass to the Building signed by Landlord; provided, however, that reasonable access for Tenant's employees and customers shall be accorded. Landlord will furnish passes to persons for whom Tenant requires same in writing. Tenant shall be responsible for all persons for whom it requests such passes and shall be liable to Landlord for all acts of such persons.
15. Tenant agrees to keep all windows closed at all times and to abide by all rules and regulations issued by Landlord with respect to the Building's air conditioning and ventilation systems.
16. Tenant will replace all broken or cracked plate glass windows and doors at its own expense, with glass of like kind and quality, provided that such windows and doors are not broken or cracked by Landlord, its employees, agents or contractors.
17. In the event it becomes necessary for the Landlord to gain access to the underfloor electric and telephone distribution system for purposes of adding or removing wiring, then upon request by Landlord, Tenant agrees to temporarily remove the carpet over the access covers to the underfloor ducts for such period of time until work to be performed has been completed. The cost of such work shall be borne by Landlord except to the extent such work was requested by or is intended to benefit Tenant or the Premises, in which case the cost shall be borne by Tenant.
18. Tenant shall not keep animals or birds within the Building or the Property, and shall not bring bicycles, motorcycles or other vehicles into areas not designated as authorized for same.