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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

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**FORM 8-K**

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**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported): September 28, 2023**

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**PLIANT THERAPEUTICS, INC.**

(Exact name of Registrant as Specified in Its Charter)

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<b>Delaware</b> (State or Other Jurisdiction of Incorporation)	<b>001-39303</b> (Commission File Number)	<b>47- 4272481</b> (IRS Employer Identification No.)
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<b>260 Littlefield Avenue, South San Francisco, CA</b> (Address of Principal Executive Offices)	<b>94080</b> (Zip Code)
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**Registrant's Telephone Number, Including Area Code: (650) 481-6770**

**Not Applicable**

(Former Name or Former Address, if Changed Since Last Report)

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.0001 per share	PLRX	The Nasdaq Stock Market LLC

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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### Item 1.01 Entry Into a Material Definitive Agreement.

On September 28, 2023, Pliant Therapeutics, Inc., a Delaware Corporation (the “Company”) entered into a lease agreement (the “Oyster Point Lease”) with HCP BTC, LLC, a Delaware limited liability company (the “Landlord”). Pursuant to the terms of the Oyster Point Lease, the Company will lease approximately 100,904 rentable square feet at 331 Oyster Point Blvd, South San Francisco, California 94080 (the “Oyster Point Premises”) for a term of approximately seven years (the “Initial Term”), which the Company intends to use as laboratory and office space. The Initial Term of the Oyster Point Lease is expected to commence upon the date of the Landlord’s substantial completion of all of the tenant improvements (the “Lease Commencement Date”), but the Company will have the right to occupy the office portion of the Oyster Point Premises as soon as the tenant improvements in that portion are complete. The Oyster Point Lease provides for base rent payments starting at \$0.26 million per month (taking into consideration an initial phase-in of the base rent obligation) in the first year of the Initial Term, and increase each year, up to \$0.71 million per month during the last year of the Initial Term. The Company is also responsible for operating expenses of the Oyster Point Premises. The Company is required to provide a letter of credit to the Landlord in the amount of \$1.43 million in connection with the Oyster Point Lease. The Oyster Point Lease may be extended for a period of eight years, at the option of the Company, at a rate to be based on the market lease rate for comparable property determined at the time of the extension. The Oyster Point Lease also provides for a right of first offer on the remaining space in the Oyster Point Premises.

The foregoing summary of the Oyster Point Lease does not purport to be complete and is qualified in its entirety by reference to the Oyster Point Lease, which is filed as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated herein by reference.

### Item 1.02 Termination of a Material Definitive Agreement

In connection with the entry into the Oyster Point Lease, the Company entered into a termination agreement (the “Termination Agreement”) with Healthpeak OP, LLC, a Maryland limited liability company, successor-interest to HCP, Inc. (“Healthpeak”) with respect to the Company’s lease (the “Littlefield Lease”) of 260 Littlefield Avenue, South San Francisco, California 94080 (“Littlefield Premises”). The Littlefield Lease was originally expected to expire on June 30, 2025. The Termination Agreement provides that the Littlefield Lease will terminate 60 days after the Lease Commencement Date of the Oyster Point Lease (the “Termination Date”).

Pursuant to the Termination Agreement, the Company has agreed to vacate the Littlefield Premises and deliver exclusive possession to Healthpeak on or before the Termination Date. The Company will have no further obligations to pay rent or its share of the direct expenses from and after the Lease Commencement Date. No early termination penalties were required in connection with the termination of the Littlefield Lease.

The foregoing summary of the Lease does not purport to be complete and is qualified in its entirety by reference to the Lease, which is filed as Exhibit 10.2 to this Current Report on Form 8-K and is incorporated herein by reference.

### Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

Information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated herein by reference into this Item 2.03 to the extent required.

### Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
10.1*	<a href="#">Lease Agreement by and between HCP BTC, LLC and the Company, dated September 28, 2023.</a>
10.2	<a href="#">Termination Agreement by and between Healthpeak OP, LLC and the Company, dated September 28, 2023.</a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

\*Certain exhibits and schedules have been omitted in accordance with Item 601(a)(5) of Regulation S-K. The registrant agrees to furnish supplementally a copy of any omitted exhibit or schedule to the SEC upon its request.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

PLIANT THERAPEUTICS, INC.

Date: October 3, 2023

By: /s/ Keith Cummings  
Keith Cummings, M.D., MBA  
Chief Financial Officer

**BRITANNIA OYSTER POINT**

**LEASE**

This Lease (the "**Lease**"), dated as of the date set forth in Section 1 of the Summary of Basic Lease Information (the "**Summary**"), below, is made by and between **HCP BTC, LLC**, a Delaware limited liability company ("**Landlord**"), and **PLIANT THERAPEUTICS, INC.**, a Delaware corporation ("**Tenant**").

**SUMMARY OF BASIC LEASE INFORMATION**

TERMS OF LEASE	DESCRIPTION
1. Date:	September 28, 2023 (the " <b>Effective Date</b> ")
2. Premises ( <u>Article 1</u> ).	
2.1 Building:	That certain building containing approximately 134,237 rentable square feet of space located at:  331 Oyster Point Blvd South San Francisco, California 94080
2.2 Premises:	Approximately 100,904 rentable square feet of space consisting of a portion of the first (1 <sup>st</sup> ) floor, and the entirety of the third (3 <sup>rd</sup> ) and fourth (4 <sup>th</sup> ) floors of the Building, including the Terrace (defined below) on the fourth (4 <sup>th</sup> ) floor, as further set forth in <u>Exhibit A</u> to the Lease.
3. Lease Term ( <u>Article 2</u> ).	
3.1 Length of Term:	Approximately seven (7) years.
3.2 Lease Commencement Date:	The date of "Substantial Completion" of the Tenant Improvements (as those terms are defined in <u>Section 5.1</u> and <u>Section 1</u> of the Tenant Work Letter attached to this Lease as <u>Exhibit B</u> ).
3.3 Lease Expiration Date:	If the Lease Commencement Date shall be the first day of a calendar month, then the day immediately preceding the seventh (7 <sup>th</sup> ) anniversary of the Lease Commencement Date; or, if the Lease Commencement Date shall be other than the first day of a calendar month, then the last day of the month in which the seventh (7 <sup>th</sup> ) anniversary of the Lease Commencement Date occurs.

4. Base Rent (Article 3):

<u>Lease Year</u>	<u>Annual Base Rent</u>	<u>Monthly Installment of Base Rent</u>	<u>Approximate Monthly Base Rent per Rentable Square Foot</u>
1*	\$3,133,083.00	\$261,090.25	\$5.75
2*	\$3,963,318.26	\$330,276.52	\$5.95
3*	\$4,847,905.87	\$403,992.16	\$6.16
4*	\$6,947,410.25	\$578,950.85	\$6.38
5	\$7,989,486.60	\$665,790.55	\$6.60
6	\$8,269,118.63	\$689,093.22	\$6.83
7	\$8,558,537.78	\$713,211.48	\$7.07

**\*Note:** The Base Rent schedule set forth above has been calculated based on the following: (i) for the first (1<sup>st</sup>) Lease Year, Tenant’s Base Rent obligation has been calculated as if the Premises contained only 45,407 rentable square feet, (ii) for the second (2<sup>nd</sup>) Lease Year, Tenant’s Base Rent obligation has been calculated as if the Premises contained only 55,497 rentable square feet, (iii) for the third (3<sup>rd</sup>) Lease Year, Tenant’s Base Rent obligation has been calculated as if the Premises contained only 65,588 rentable square feet, and (iv) for the fourth (4<sup>th</sup>) Lease Year, Tenant’s Base Rent obligation has been calculated as if the Premises contained only 90,814 rentable square feet. From and after the first day of the fifth (5<sup>th</sup>) Lease Year, Tenant’s Base Rent obligations have been calculated based upon the full 100,904 rentable square feet of the Premises. Such calculations during the first four (4) Lease Years shall not affect Tenant’s right to use the entire Premises, or Tenant’s rights or obligations under this Lease with respect to the entire Premises, including without limitation, Tenant’s obligation to pay Tenant’s Share of Direct Expenses with respect to the Premises which shall be as provided in Section 6 of this Summary, all in accordance with the terms and conditions of this Lease.

5. Tenant Improvements (Exhibit B): Tenant Improvements to be constructed on a turn-key basis pursuant to the Work Letter attached hereto as Exhibit B.

6. Tenant's Share (Article 4): 75.17% of the Building; 11.85% of the Project.

7. Permitted Use (Article 5): The Premises shall be used only for general office, research and development, engineering, lab scale manufacturing, vivarium, laboratory, storage and/or warehouse uses, including, but not limited to, administrative offices and other lawful uses reasonably related to or incidental to such specified uses, all (i) consistent with first class life sciences projects in South San Francisco, California ("**First Class Life Sciences Projects**"), and (ii) in compliance with, and subject to, Applicable Laws (as defined in Article 24, below) and the terms of this Lease.

8. Amount of Letter of Credit (Article 21): \$1,426,422.96.

9. Parking  
(Article 28):

2.7 unreserved parking spaces for every 1,000 rentable square feet of the Premises, subject to the terms of Article 28 of the Lease.

10. Address of Tenant  
(Section 29.18):

Before Tenant commences occupancy of the Early Occupancy Space:

Pliant Therapeutics, Inc.  
260 Littlefield Avenue  
South San Francisco, CA 94080  
Attention: Chief Financial Officer

And

Pliant Therapeutics, Inc.  
260 Littlefield Avenue  
South San Francisco, CA 94080  
Attention: General Counsel

After Tenant commences occupancy of Early Occupancy Space:

Pliant Therapeutics, Inc.  
331 Oyster Point Blvd.  
South San Francisco, CA 94080  
Attention: Chief Financial Officer

And

Pliant Therapeutics, Inc.  
331 Oyster Point Blvd.  
South San Francisco, CA 94080  
Attention: General Counsel

11. Address of Landlord  
(Section 29.18):

See Section 29.18 of the Lease.

12. Broker(s)  
(Section 29.24):

CBRE, Inc.

and

Newmark Cornish & Carey

## 1. PREMISES, BUILDING, PROJECT, AND COMMON AREAS

### 1.1 Premises, Building, Project and Common Areas.

1.1.1 **The Premises.** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the premises set forth in Section 2.2 of the Summary (the "**Premises**"). The outline of the Premises is set forth in Exhibit A attached hereto. The outline of the "Building" and the "Project," as those terms are defined in Section 1.1.2 below, are further depicted on the Site Plan attached hereto as Exhibit A-1. The parties hereto agree that the lease of the Premises is upon and subject to the terms, covenants and conditions herein set forth, and Tenant covenants as a material part of the consideration for this Lease to keep and perform each and all of such terms, covenants and conditions by it to be kept and performed. The parties hereto hereby acknowledge that the purpose of Exhibit A is to show the approximate location of the Premises only, and such Exhibit is not meant to constitute an agreement, representation or warranty as to the construction of the Premises, the precise area thereof or the specific location of the "Common Areas," as that term is defined in Section 1.1.3, below, or the elements thereof or of the access ways to the Premises or the "Project," as that term is defined in Section 1.1.2, below. Except as specifically set forth in this Lease and in the Tenant Work Letter attached hereto as Exhibit B (the "**Tenant Work Letter**"), Landlord shall not be obligated to provide or pay for any improvement work or services related to the improvement of the Premises. Landlord shall be deemed to have tendered possession of the Premises to Tenant upon the Substantial Completion of the Tenant Improvements in the Premises (provided Landlord provides written notice thereof and access keys to the Premises to Tenant), and no action by Tenant shall be required therefor. Tenant also acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty regarding the condition of the Premises, the Building or the Project or with respect to the suitability of any of the foregoing for the conduct of Tenant's business, except as specifically set forth in this Lease and the Tenant Work Letter. Landlord shall deliver the Premises to Tenant in good, vacant, broom clean condition, with the Tenant Improvements in the Premises Substantially Complete (or with respect to the Early Occupancy Space, pursuant to the terms of Section 2.1.2 below) in compliance with Applicable Laws (to the extent necessary to obtain or maintain a certificate of occupancy or its legal equivalent for the applicable portion of the Premises), with all closures in connection with previous Hazardous Materials use completed and otherwise in the same condition as of the date hereof, with the roof water-tight and shall cause the plumbing, electrical systems, fire sprinkler system, lighting and other building systems serving the Premises, including the Generator, to be in good operating condition and repair on the Lease Commencement Date. Prior to the Early Occupancy Date, Landlord shall provide Tenant with all decommissioning reports that Landlord receives from the existing tenant of the Premises following the vacation of the Premises by such existing tenant. Notwithstanding anything in this Lease to the contrary, in connection with the foregoing Landlord shall, at Landlord's sole cost and expense (which shall not be deemed an "Operating Expense," as that term is defined in Section 4.2.4), repair or replace any failed or inoperable portion of the Building Systems serving the Premises during the first (1<sup>st</sup>) Lease Year of the initial Lease term ("**Warranty Period**"), provided that the need to repair or replace was not caused by the misuse, misconduct, damage, destruction, omissions, and/or negligence of Tenant, its subtenants and/or assignees, if any, or any company which is acquired, sold or merged with Tenant (collectively, "**Tenant Damage**"), or by any modifications, Alterations or improvements constructed by or on behalf of Tenant. Landlord shall coordinate such work with Tenant and shall utilize commercially reasonable efforts to perform the same in a manner designed to minimize interference with Tenant's use of the Premises. To the extent repairs which Landlord is required to make pursuant to this Section 1.1.1 are necessitated in part by Tenant Damage, then Tenant shall reimburse Landlord for an equitable proportion of the cost of such repair. Landlord will be responsible for causing the exterior of the Building, the existing Building entrances, and all exterior Common Areas (including required striping and handicapped spaces in the parking areas) to be in compliance with Applicable Laws, to the extent required to allow the legal occupancy of the Premises or completion of the Tenant Improvements. In addition, the parties acknowledge that the fourth (4<sup>th</sup>) floor of the Premises has an outdoor terrace (the "**Terrace**"), which Tenant shall be permitted to use on an exclusive basis during the Lease Term (except with respect to certain access by Landlord as needed to maintain and repair the Building), subject to the terms and conditions of this Lease. In consideration for being permitted to use the Terrace during the Lease Term, Tenant does hereby release, waive, discharge, and covenant not to sue Landlord or any of the other "Landlord Parties" (as defined in Section 10.1 below), and agrees to protect, indemnify, defend and hold all Landlord Parties harmless from and against any and all losses in any way arising or resulting from use of the Terrace by Tenant or Tenant's employees, agents or invitees, in

each case, except to the extent due to the negligence or willful misconduct of Landlord or its agents, employees, contractors, licensees or invitees or Landlord's violation of this Lease. Tenant acknowledges that use of the Terrace carries with it certain inherent risks that it may not be possible to eliminate regardless of the care taken to avoid injuries, and Tenant hereby assumes all risks associated with use of the Terrace by Tenant, its employees, agents or invitees, except to the extent due to the negligence or willful misconduct of Landlord or its agents, employees, contractors, licensees or invitees or Landlord's violation of this Lease. Accordingly, Tenant shall be liable for the use of the Terrace in the same manner that Tenant is liable for the Premises under this Lease.

1.1.2 **The Building and The Project.** The Premises constitutes a portion of the building set forth in Section 2.1 of the Summary (the "**Building**"). The Building is part of an office/laboratory project containing approximately 851,825 rentable square feet currently known as "Britannia Oyster Point." The term "**Project**," as used in this Lease, shall mean (i) the Building and the Common Areas, (ii) the land (which is improved with landscaping, parking facilities and other improvements) upon which the Building and the Common Areas are located, (iii) the other office/laboratory buildings located at Britannia Oyster Point, and the land upon which such adjacent office/laboratory buildings are located, (iv) certain amenity space, including a fitness center and meeting rooms, to be constructed by Landlord and located in the Project in the 1120 Veterans building (the "**Amenity Space**"), and (v) at Landlord's discretion, any additional real property, areas, land, buildings or other improvements added thereto outside of the Project (provided that any such additions do not increase Tenant's obligations under this Lease).

1.1.3 **Common Areas.** Tenant shall have the non-exclusive right to use and subject to the rules and regulations referred to in Article 5 of this Lease, in common with other tenants in (i) the Building, the shared lobby and loading dock in the Building and (ii) in the Project, those portions of the Project which are provided, from time to time, for use in common by Landlord, Tenant and any other tenants of the Project, including the Amenity Space (such areas, together with such other portions of the Project designated by Landlord, in its discretion, are collectively referred to herein as the "**Common Areas**"). Landlord shall maintain and operate the Common Areas, including all sprinkler and other systems serving the Common Areas, in a first class manner, and the use thereof shall be subject to such rules, regulations and restrictions as Landlord may reasonably make from time to time. Landlord reserves the right to close temporarily to make required repairs, make alterations or additions to, or change the location of elements of the Project and the Common Areas, provided that in connection therewith Landlord will use commercially reasonable efforts to minimize any interference with Tenant's use of and access to the Premises and parking areas. Landlord shall endeavor to complete the Amenity Space by January 1, 2025.

1.1.4 **Reception Area.** Until the date which is thirty (30) days prior to the second (2<sup>nd</sup>) floor or a portion thereof being occupied by a third-party tenant, Tenant will be permitted to keep and maintain a reception desk in the lobby of the Building, in the location currently being used by Prothena as of the date of this Lease (the "**Tenant's Reception Area**"). The parties hereby acknowledge and agree that (a) Tenant's Reception Area is not currently, and shall not in the future be, demised separately from the Building lobby, (b) Tenant's use will be non-exclusive and will not block passage of foot traffic through the lobby of the Building (but Tenant will be permitted to maintain a desk and chairs in the Tenant's Reception Area), and Tenant shall only have non-exclusive rights to use such area as Common Area and not for Tenant's own purposes, other than the reception desk, (c) Tenant's Reception Area is not a secure area, Landlord shall not provide any security for Tenant's Reception Area, and Tenant's use of Tenant's Reception Area is at Tenant's sole risk, (d) Landlord and its agents shall in no event be liable for any injury, loss, or damage in or to Tenant's Reception Area, including, without limitation, with respect to Tenant's furniture, trade fixtures, equipment, and personal property located in Tenant's Reception Area (collectively, the "**Reception Area FF&E**"), except to the extent of any damage caused by the negligence or willful misconduct of Landlord or any Landlord Party, (e) Tenant shall maintain the Reception Area FF&E in a good standard of maintenance, repair and replacement as required, and in good and sanitary condition, all in accordance with the standards of First Class Life Sciences Projects throughout the duration of Tenant's use thereof, and shall repair and/or replace any Reception Area FF&E promptly in order to satisfy such standard at all times, and (f) notwithstanding any contrary provision of the Lease, Tenant shall use Tenant's Reception Area solely for a typical front office reception use for office space, consistent with the character of the Project as a First Class Life Sciences Project, provided that Tenant shall not use Tenant's Reception Area for any other use, without Landlord's prior written consent. Once Landlord leases all or a portion of the second (2<sup>nd</sup>) floor of the Building to a third-party tenant, Landlord shall have the right to terminate Tenant's right to use the Tenant's Reception Area by delivery of



not less than thirty (30) days prior written notice to Tenant (which notice may not provide for a termination of Tenant's right to use the Tenant's Reception Area prior to the date which is thirty (30) days prior to the second (2<sup>nd</sup>) floor or a portion thereof being occupied by a third-party tenant), and thereafter Landlord shall provide access control personnel in the lobby of the Building during normal business hours materially consistent with a First Class Life Sciences Project. Notwithstanding the previous sentence or the first sentence of this Section 1.1.4, Landlord hereby agrees to endeavor in good faith to coordinate with the incoming second floor tenant(s) with respect to Tenant's Reception Area, and Tenant can maintain Tenant's Reception Area and Tenant access control personnel in the lobby even after the occupancy of the second (2<sup>nd</sup>) floor by such incoming second floor tenant(s) unless they pose a material concern to the incoming second floor tenant(s).

1.2 **Rentable Square Feet of Premises.** The rentable square footage of the Premises is hereby deemed to be as set forth in Section 2.2 of the Summary, and shall not be subject to measurement or adjustment during the Lease Term.

1.3 **Right of First Offer.** Landlord hereby grants to the named Tenant in the Lease (the "**Original Tenant**") and its "Permitted Assignee" (as that term is defined in Section 14.8 below) a one-time right of first offer, during the period from the Effective Date until the end of the third (3<sup>rd</sup>) year of the Lease Term only (i.e., such right expires on the third (3<sup>rd</sup>) anniversary of the Lease Commencement Date), with respect to the space located on the second (2<sup>nd</sup>) floor of the Building which consists of 33,333 rentable square feet of space (the "**First Offer Space**"). Such right of first offer shall be subordinate to the ongoing right of first offer held by NGM Biopharmaceuticals that commences January 1, 2024 and expires five (5) years thereafter (the "**Superior Right**"). The third party tenant in the Project holding Superior Right, is the "**Superior Right Holder**". Tenant's right of first offer shall be on the terms and conditions set forth in this Section 1.3.

1.3.1 **Procedure for Offer.** Subject to the terms of this Section 1.3, Landlord shall notify Tenant (the "**First Offer Notice**") prior to leasing the applicable portion of the First Offer Space to a third party during the period from the Effective Date until the third (3<sup>rd</sup>) anniversary of the Lease Commencement Date only, subject to the rights of any Superior Right Holder. Pursuant to such First Offer Notice, Landlord shall offer to lease to Tenant the then available First Offer Space. The First Offer Notice shall describe the space so offered to Tenant and the base rent, and other fundamental material economic terms upon which Landlord is willing to lease such space (the "**First Offer Terms**"). In no event shall Landlord have the obligation to deliver a First Offer Notice (and Tenant shall have no right to exercise its right under this Section 1.3) on or after the third (3<sup>rd</sup>) anniversary of the Lease Commencement Date (the "**ROFO Expiration**").

1.3.2 **Procedure for Acceptance.** If Tenant wishes to exercise Tenant's right of first offer with respect to the space described in the First Offer Notice, then within seven (7) days of delivery of the First Offer Notice to Tenant, Tenant shall deliver notice to Landlord (the "**First Offer Exercise Notice**") of Tenant's election to exercise its right of first offer with respect to the entire space described in the First Offer Notice on the terms contained in such notice. If Tenant does not so notify Landlord within such seven (7) day period, then Landlord shall be free to lease the space described in the First Offer Notice to anyone to whom Landlord desires on any terms Landlord desires. Notwithstanding the foregoing, if Landlord desires to enter into such a lease or lease amendment with a third party on fundamental material economic terms and conditions that are more than ten percent (10%) more favorable than such fundamental material economic terms and conditions set forth in the First Offer Notice provided to Tenant, then Landlord shall deliver another First Offer Notice to Tenant containing such more favorable terms and conditions. If Tenant thereafter wishes to exercise its right of first offer with respect to an offer contained in a subsequent First Offer Notice, Tenant shall deliver the First Offer Exercise Notice to Landlord within five (5) days of delivery of such First Offer Notice (which procedure shall be repeated until Landlord enters into a lease or lease amendment with respect to such First Offer Space which does not require Landlord to deliver another First Offer Notice to Tenant pursuant to the terms of this paragraph or Tenant exercises such right of first offer, as applicable). Notwithstanding anything to the contrary contained herein, Tenant must elect to exercise its right of first offer, if at all, with respect to all of the First Offer Space offered by Landlord to Tenant at any particular time, and Tenant may not elect to lease only a portion thereof.

1.3.3 **Construction In First Offer Space.** Except as provided in the First Offer Notice, Tenant shall take the First Offer Space in its "as is" condition, and the construction of improvements in the First

Offer Space shall comply with the terms of Section 1.3 of this Lease. Any improvement allowance to which Tenant may be entitled shall be as set forth in the First Offer Notice.

1.3.4 **Amendment to Lease.** If Tenant timely exercises Tenant's right to lease the First Offer Space as set forth herein, then Landlord and Tenant shall thereafter execute an amendment to the Lease for such First Offer Space upon the terms and conditions as set forth in the First Offer Notice and this Section 1.3. The rentable square footage of any First Offer Space leased by Tenant shall be determined by Landlord in accordance with Landlord's then current BOMA standard of measurement. Tenant shall commence payment of rent for the First Offer Space, and the term of Tenant's lease of the First Offer Space shall commence, upon the date of delivery of the First Offer Space to Tenant (the "**First Offer Commencement Date**") and shall terminate on the date set forth in the First Offer Notice.

1.3.5 **Termination of Right of First Offer.** Tenant's rights under this Section 1.3 shall be personal to the Original Tenant and its Permitted Assignees and may only be exercised by the Original Tenant or its Permitted Assignee (and not any other assignee, sublessee or other transferee of the Original Tenant's interest in the Lease) if the Original Tenant or a Permitted Assignee has not subleased fifty percent (50%) or more of the Premises. The right of first offer granted herein shall terminate as to particular First Offer Space upon Tenant's failure to timely exercise its right of first offer with respect to such particular First Offer Space and Landlord entering into a lease for such First Offer Space within nine (9) months following the expiration of Tenant's seven (7) day period to exercise (i.e., if Landlord enters into a lease within such nine (9) month period, the right herein shall terminate and Landlord shall have no obligation to deliver any further First Offer Notice for the applicable First Offer Space, even after the expiration or earlier termination of such intervening lease), provided that if Landlord does not lease the particular First Offer Space within nine (9) months the expiration of Tenant's seven (7) day period to exercise, Tenant's right of first offer shall again apply and the provisions of this Section 1.3 shall again be applicable pursuant to the terms hereof. Tenant shall not have the right to lease First Offer Space, as provided in this Section 1.3, if, as of the date of the attempted exercise of any right of first offer by Tenant, or, at Landlord's option, as of the scheduled date of delivery of such First Offer Space to Tenant, Tenant is in default under the Lease, or Tenant has previously been in default under the Lease (beyond the expiration of any applicable notice and cure period set forth in the Lease) more than twice.

1.4 **Current Leases.** Landlord represents that (a) the Premises are currently leased to Amgen, Inc., and (b) such lease is scheduled to expire on December 31, 2023.

## 2. LEASE TERM; OPTION TERM

### 2.1 **Lease Term; Early Occupancy.**

2.1.1 **Lease Term.** The terms and provisions of this Lease shall be effective as of the date of this Lease. The term of this Lease (the "**Lease Term**") shall be as set forth in Section 3.1 of the Summary, shall commence on the date set forth in Section 3.2 of the Summary (the "**Lease Commencement Date**"), and shall terminate on the date set forth in Section 3.3 of the Summary (the "**Lease Expiration Date**") unless this Lease is sooner terminated as hereinafter provided. For purposes of this Lease, the term "**Lease Year**" shall mean each consecutive twelve (12) month period during the Lease Term, provided that if the Lease Commencement Date occurs on other than the first day of a month, the first "Lease Year" shall commence on the Lease Commencement Date and end on the last day of the month in which the first anniversary of the Lease Commencement Date occurs (or if the Lease Commencement Date is the first day of a calendar month, then the first Lease Year shall commence on the Lease Commencement Date and end on the day immediately preceding the first anniversary of the Lease Commencement Date), and the second and each succeeding Lease Year shall commence on the first day of the next calendar month; and further provided that the last Lease Year shall end on the Lease Expiration Date. At any time during the Lease Term, Landlord may deliver to Tenant a notice in the form as set forth in Exhibit C, attached hereto, as a confirmation only of the information set forth therein, which Tenant shall execute and return to Landlord within five (5) business days of receipt thereof. Notwithstanding the foregoing, if the Early Occupancy Date (as defined in Section 2.1.2 below) has not occurred, (1) on or before March 20, 2024, then, as Tenant's sole remedy for such delay, the date Tenant is otherwise obligated to commence payment of rent as to the Early Occupancy Space after the Lease Commencement Date shall be delayed by one day for each day that the Early Occupancy Date is delayed beyond such date, or (2) September 1, 2024, then, Tenant shall also have the right to terminate this Lease by written notice thereof to Landlord, whereupon any monies previously paid by Tenant to Landlord shall be

reimbursed to Tenant. In addition, notwithstanding the foregoing, if Landlord has not delivered possession of the remainder of the Premises (other than the Early Occupancy Space) Substantially Complete on or before September 15, 2024, then, as Tenant's sole remedy for such delay (but subject to the terms of the preceding sentence), the date Tenant is otherwise obligated to commence payment of rent as to the portion of the Premises on the first floor of the Building shall be delayed by one day for each day that the delivery date is delayed beyond such date. All of the foregoing dates shall be extended to the extent of any delays in delivery of possession caused by (i) Tenant Delay, as provided in Section 5.2 of the Tenant Work Letter, or (ii) war, terrorism, acts of God, natural disaster, civil unrest, governmental strike or area-wide or industry-wide labor disputes, inability to obtain services, labor, or materials or reasonable substitutes therefor, or delays due to utility companies that are not the result of any action or inaction of Landlord (provided that any such delay shall not extend any such date by more than fifteen (15) days, other than the date set forth in item (2) above which may be extended up to thirty (30) days).

2.1.2 **Early Occupancy.** Tenant shall have the right to occupy the third (3<sup>rd</sup>) and fourth (4<sup>th</sup>) floors of the Premises (the "**Early Occupancy Space**") after the portion of the Tenant Improvements being performed in such Early Occupancy Space are substantially completed (such date of substantial completion, the "**Early Occupancy Date**"), and prior to Substantial Completion of the Tenant Improvements in the entire Premises and Lease Commencement Date, for the conduct of Tenant's business, provided that (i) Tenant shall give Landlord reasonable prior notice of any such occupancy of the Premises, and (ii) all of the terms and conditions of this Lease shall apply to Tenant's use and occupancy of the Early Occupancy Space, other than Tenant's obligation to pay Base Rent and Direct Expenses, as though the Lease Commencement Date had occurred (although the Lease Commencement Date shall not actually occur until the occurrence of the same pursuant to the terms of this Lease) upon such occupancy of the Premises by Tenant. Tenant and its agents shall not interfere with construction of the Tenant Improvements in the remainder of the Premises.

## 2.2 **Option Term.**

2.2.1 **Option Right.** Landlord hereby grants to the Original Tenant and its Permitted Assignees, one (1) option to extend the Lease Term for a period of eight (8) years (the "**Option Term**"), which option shall be irrevocably exercised only by written notice delivered by Tenant to Landlord not more than fifteen (15) months nor less than twelve (12) months prior to the expiration of the initial Lease Term, provided that the following conditions (the "**Option Conditions**") are satisfied: (i) as of the date of delivery of such notice, Tenant is not in default under this Lease, after the expiration of any applicable notice and cure period; (ii) Tenant has not previously been in default under this Lease, after the expiration of any applicable notice and cure period, more than twice in the twelve (12) month period prior to the date of Tenant's attempted exercise; and (iii) the Lease then remains in full force and effect. Landlord may, at Landlord's option, exercised in Landlord's sole and absolute discretion, waive any of the Option Conditions in which case the option, if otherwise properly exercised by Tenant, shall remain in full force and effect. Upon the proper exercise of such option to extend, and provided that Tenant satisfies all of the Option Conditions (except those, if any, which are waived by Landlord), the Lease Term, as it applies to the Premises, shall be extended for a period of eight (8) years. The rights contained in this Section 2.2 shall be personal to Original Tenant and any Permitted Assignees, and may be exercised by Original Tenant or such Permitted Assignees (and not by any other assignee, sublessee or other "Transferee," as that term is defined in Section 14.1 of this Lease, of Tenant's interest in this Lease).

2.2.2 **Option Rent.** The annual Rent payable by Tenant during the Option Term (the "**Option Rent**") shall be equal to the "Fair Rental Value," as that term is defined below, for the Premises as of the commencement date of the Option Term. The "**Fair Rental Value**," as used in this Lease, shall be equal to the annual rent per rentable square foot (including additional rent and considering any "base year" or "expense stop" applicable thereto), including all escalations, at which tenants (pursuant to leases consummated within the fifteen (15) month period preceding the first day of the Option Term), are leasing non-sublease, non-encumbered, non-equity space which is not significantly greater or smaller in size than the subject space, with a comparable level of improvements (excluding any property that Tenant would be allowed to remove from the Premises at the termination of the Lease), for a comparable lease term, in an arm's length transaction, which comparable space is located in the "Comparable Buildings," as that term is defined in this Section 2.2.2, below (transactions satisfying the foregoing criteria shall be known as the "**Comparable Transactions**"), taking into consideration the following concessions (the "**Concessions**"): (a) rental abatement concessions, if any, being granted such tenants in connection with such comparable space; (b) tenant improvements or allowances provided or to be provided for such comparable space,

and taking into account the value, if any, of the existing improvements in the subject space (other than improvements installed by Tenant at Tenant's sole cost and expense), such value to be based upon the age, condition, design, quality of finishes and layout of the improvements and the extent to which the same can be utilized by a general office/lab user other than Tenant; and (c) other reasonable monetary concessions being granted such tenants in connection with such comparable space; provided, however, that in calculating the Fair Rental Value, no consideration shall be given to the fact that Landlord is or is not required to pay a real estate brokerage commission in connection with Tenant's exercise of its right to extend the Lease Term, or the fact that landlords are or are not paying real estate brokerage commissions in connection with such comparable space. During the Option Term, Landlord shall have the right to require Tenant to provide additional security in the form of a cash security deposit and/or letter of credit, in amounts reasonably determined by Landlord but not to exceed the greater of (a) the L-C Amount under this Lease, and (b) an amount equal to twice the monthly installment of Option Rent payable by Tenant during the last year of the Option Term, based upon Landlord's review of Tenant's financial statements (and in connection therewith, Tenant shall provide the financial statements referenced in Section 17.2 of this Lease within ten (10) business days of Landlord's request) if there has been a material adverse change in Tenant's financial condition as compared to Tenant's financial condition as of the Effective Date. The Concessions shall be reflected in the effective rental rate (which effective rental rate shall take into consideration the total dollar value of such Concessions as amortized on a straight-line basis over the applicable term of the Comparable Transaction (in which case such Concessions evidenced in the effective rental rate shall not be granted to Tenant)) payable by Tenant. The term "**Comparable Buildings**" shall mean the Building and those other life sciences buildings which are comparable to the Building in terms of age (based upon the date of completion of construction or major renovation of to the building), quality of construction, level of services and amenities, size and appearance, and are located in South San Francisco, California and the surrounding commercial area.

2.2.3 **Determination of Option Rent.** In the event Tenant timely and appropriately exercises an option to extend the Lease Term, Landlord shall notify Tenant of Landlord's determination of the Option Rent within thirty (30) days thereafter. If Tenant, on or before the date which is ten (10) days following the date upon which Tenant receives Landlord's determination of the Option Rent, in good faith objects to Landlord's determination of the Option Rent, then Landlord and Tenant shall attempt to agree upon the Option Rent using their best good-faith efforts. If Landlord and Tenant fail to reach agreement within ten (10) days following Tenant's objection to the Option Rent (the "**Outside Agreement Date**"), then Tenant shall have the right to withdraw its exercise of the option by delivering written notice thereof to Landlord within five (5) days thereafter, in which event Tenant's right to extend the Lease pursuant to this Section 2.2 shall be of no further force or effect. If Tenant does not withdraw its exercise of the extension option, each party shall make a separate determination of the Option Rent, as the case may be, within ten (10) days after the Outside Agreement Date, and such determinations shall be submitted to arbitration in accordance with Sections 2.2.3.1 through 2.2.3.7, below. If Tenant fails to object to Landlord's determination of the Option Rent within the time period set forth herein, then Tenant shall be deemed to have accepted Landlord's determination of Option Rent.

2.2.3.1 Landlord and Tenant shall each appoint one arbitrator who shall be a real estate appraiser who shall have been active over the five (5) year period ending on the date of such appointment in the appraisal of other class A life sciences buildings located in the South San Francisco market area. The determination of the arbitrators shall be limited solely to the issue of whether Landlord's or Tenant's submitted Option Rent is the closest to the actual Option Rent, taking into account the requirements of Section 2.2.2 of this Lease, as determined by the arbitrators. Each such arbitrator shall be appointed within fifteen (15) days after the Outside Agreement Date. Landlord and Tenant may consult with their selected arbitrators prior to appointment and may select an arbitrator who is favorable to their respective positions. The arbitrators so selected by Landlord and Tenant shall be deemed "**Advocate Arbitrators.**"

2.2.3.2 The two (2) Advocate Arbitrators so appointed shall be specifically required pursuant to an engagement letter within ten (10) days of the date of the appointment of the last appointed Advocate Arbitrator to agree upon and appoint a third arbitrator ("**Neutral Arbitrator**") who shall be qualified under the same criteria set forth hereinabove for qualification of the two Advocate Arbitrators, except that neither the Landlord or Tenant or either parties' Advocate Arbitrator may, directly or indirectly, consult with the Neutral Arbitrator prior or subsequent to his or her appearance. The Neutral Arbitrator shall be retained via an engagement letter jointly prepared by Landlord's counsel and Tenant's counsel.

2.2.3.3 The three arbitrators shall, within thirty (30) days of the appointment of the Neutral Arbitrator, reach a decision as to whether the parties shall use Landlord's or Tenant's submitted Option Rent, and shall notify Landlord and Tenant thereof.

2.2.3.4 The decision of the majority of the three arbitrators shall be binding upon Landlord and Tenant.

2.2.3.5 If either Landlord or Tenant fails to appoint an Advocate Arbitrator within fifteen (15) days after the Outside Agreement Date, then either party may petition the presiding judge of the Superior Court of San Mateo County to appoint such Advocate Arbitrator subject to the criteria in Section 2.2.3.1 of this Lease, or if he or she refuses to act, either party may petition any judge having jurisdiction over the parties to appoint such Advocate Arbitrator.

2.2.3.6 If the two (2) Advocate Arbitrators fail to agree upon and appoint the Neutral Arbitrator, then either party may petition the presiding judge of the Superior Court of San Mateo County to appoint the Neutral Arbitrator, subject to criteria in Section 2.2.3.1 of this Lease, or if he or she refuses to act, either party may petition any judge having jurisdiction over the parties to appoint such arbitrator.

2.2.3.7 The cost of the arbitration shall be paid by Landlord and Tenant equally.

2.2.3.8 In the event that the Option Rent shall not have been determined pursuant to the terms hereof prior to the commencement of the Option Term, Tenant shall be required to pay the Option Rent initially provided by Landlord to Tenant, and upon the final determination of the Option Rent, the payments made by Tenant shall be reconciled with the actual amounts of Option Rent due, and the appropriate party shall make any corresponding payment to the other party.

**3. BASE RENT** Tenant shall pay, without prior notice or demand, to Landlord or Landlord's agent at the management office of the Project, or, at Landlord's option, at such other place as Landlord may from time to time designate in writing, by a check for currency which, at the time of payment, is legal tender for private or public debts in the United States of America, base rent ("**Base Rent**") as set forth in Section 4 of the Summary, payable in equal monthly installments as set forth in Section 4 of the Summary in advance on or before the first day of each and every calendar month during the Lease Term, without any setoff or deduction whatsoever. Landlord shall deliver written notice to Tenant when Landlord reasonably believes the Lease Commencement Date will occur in sixty (60) days, and Tenant shall within five (5) business days after receipt of such written notice deliver to Landlord payment for the Base Rent for the first (1<sup>st</sup>) full month of the Lease Term. If any Rent payment date (including the Lease Commencement Date) falls on a day of the month other than the first day of such month or if any payment of Rent is for a period which is shorter than one month, the Rent for any fractional month shall accrue on a daily basis for the period from the date such payment is due to the end of such calendar month or to the end of the Lease Term at a rate per day which is equal to 1/365 of the applicable annual Rent. All other payments or adjustments required to be made under the terms of this Lease that require proration on a time basis shall be prorated on the same basis.

#### **4. ADDITIONAL RENT**

##### **4.1 General Terms.**

4.1.1 **Direct Expenses; Additional Rent.** In addition to paying the Base Rent specified in Article 3 of this Lease, Tenant shall pay during the Lease Term "**Tenant's Share**" of the annual "**Direct Expenses**," as those terms are defined in Sections 4.2.6 and 4.2.2 of this Lease, respectively, allocable to the Building as described in Section 4.3. Such payments by Tenant, together with any and all other amounts payable by Tenant to Landlord pursuant to the terms of this Lease, are hereinafter collectively referred to as the "**Additional Rent**", and the Base Rent and the Additional Rent are herein collectively referred to as "**Rent**." All amounts due under this Article 4 as Additional Rent shall be payable for the same periods and in the same manner as the Base Rent. Without limitation on other obligations of Tenant which survive the expiration of the Lease Term, the obligations of Tenant to pay the Additional Rent provided for in this Article 4 shall survive the expiration of the Lease Term.

4.1.2 **Triple Net Lease.** Landlord and Tenant acknowledge that, to the extent provided in this Lease, it is their intent and agreement that this Lease be a "**TRIPLE NET**" lease and that as such, the provisions contained in this Lease are intended to pass on to Tenant or reimburse Landlord for the costs and expenses

reasonably associated with this Lease, the Building and the Project, and Tenant's operation therefrom to the extent provided in this Lease. To the extent such costs and expenses payable by Tenant cannot be charged directly to, and paid by, Tenant, such costs and expenses shall be paid by Landlord but reimbursed by Tenant as Additional Rent.

4.2 **Definitions of Key Terms Relating to Additional Rent.** As used in this Article 4, the following terms shall have the meanings hereinafter set forth:

4.2.1 Intentionally Deleted.

4.2.2 "**Direct Expenses**" shall mean "**Operating Expenses**" and "**Tax Expenses**."

4.2.3 "**Expense Year**" shall mean each calendar year in which any portion of the Lease Term falls, through and including the calendar year in which the Lease Term expires, provided that Landlord, upon notice to Tenant, may change the Expense Year from time to time to any other twelve (12) consecutive month period, and, in the event of any such change, Tenant's Share of Direct Expenses shall be equitably adjusted for any Expense Year involved in any such change.

4.2.4 "**Operating Expenses**" shall mean all expenses, costs and amounts of every kind and nature which Landlord pays or accrues during any Expense Year because of or in connection with the ownership, management, maintenance, security, repair, replacement, restoration or operation of the Project, or any portion thereof (including, without limitation, all Common Areas and the Amenity Space). Without limiting the generality of the foregoing, Operating Expenses shall specifically include any and all of the following: (i) the cost of supplying all utilities, the cost of operating, repairing and maintaining the utility, telephone, mechanical, sanitary, storm drainage, and elevator systems, and the cost of maintenance and service contracts in connection therewith; (ii) the cost of licenses, certificates, permits and inspections and the cost of contesting any governmental enactments which are reasonably likely to increase Operating Expenses during the Lease Term, and the costs incurred in connection with a governmentally mandated transportation system management program or similar program; (iii) the cost of all insurance carried by Landlord in connection with the Project and Premises as reasonably determined by Landlord; (iv) the cost of landscaping, relamping, and all supplies, tools, equipment and materials used in the operation, repair and maintenance of the Project, or any portion thereof; (v) the cost of parking area operation, repair, restoration, and maintenance; (vi) management and/or incentive fees, consulting fees, legal fees and accounting fees, of all contractors and consultants in connection with the management, operation, maintenance and repair of the Project; (vii) payments under any equipment rental agreements; (viii) subject to item (f), below, wages, salaries and other compensation and benefits, including taxes levied thereon, of all persons engaged in the operation, maintenance and security of the Project; (ix) costs under any easement pertaining to the sharing of costs by the Project; (x) operation, repair, maintenance and replacement of all systems and equipment and components thereof of the Project; (xi) the cost of janitorial, alarm, security and other services, replacement of wall and floor coverings, ceiling tiles and fixtures in Common Areas, maintenance and replacement of curbs and walkways, repair to roofs and re-roofing; (xii) amortization (including commercially reasonable interest on the unamortized cost) over such period of time as Landlord shall reasonably determine, of the cost of acquiring or the rental expense of personal property used in the maintenance, operation and repair of the Project, or any portion thereof; (xiii) the cost of capital improvements or other costs incurred in connection with the Project (A) which are intended to effect economies in the operation or maintenance of the Project, or any portion thereof, or to reduce current or future Operating Expenses or to enhance the safety or security of the Project or its occupants, (B) which are required to comply with present or anticipated conservation programs, (C) which are replacements or modifications of nonstructural items located in the Common Areas required to keep the Common Areas in good order or condition, or (D) which are required under any governmental law or regulation; provided, however, notwithstanding anything to the contrary herein, that any capital expenditure shall be amortized (including reasonable interest on the amortized cost) over the reasonable useful life of such capital item before being included in Operating Expenses; (xiv) costs, fees, charges or assessments imposed by, or resulting from any mandate imposed on Landlord by, any federal, state or local government for fire and police protection, trash removal, community services, or other services which do not constitute "Tax Expenses" as that term is defined in Section 4.2.5, below; (xv) payments under any easement, license, operating agreement, declaration, restrictive covenant, or instrument pertaining to the sharing of costs by the Building, including, without limitation, any covenants, conditions and restrictions affecting the property, and reciprocal easement agreements affecting the property, any parking licenses, and any agreements with transit agencies affecting the Property (collectively, "**Underlying Documents**"), and (xvi) subject to item (t) below, rent or imputed rent for any office space occupied

by Project property management personnel, and rent or imputed rent for the Amenity Space equitably allocable to the Project after the same is completed and in operation (subject to the terms of item (u), below). Notwithstanding the foregoing, for purposes of this Lease, Operating Expenses shall not, however, include:

(a) costs, including legal fees, space planners' fees, advertising and promotional expenses (except as otherwise set forth above), and brokerage fees incurred in connection with the original construction or development, or original or future leasing of the Project, and costs, including permit, license and inspection costs, incurred with respect to the installation of tenant improvements made for new tenants initially occupying space in the Project after the Lease Commencement Date or incurred in renovating or otherwise improving, decorating, painting or redecorating vacant space for tenants or other occupants of the Project (excluding, however, such costs relating to any Common Areas of the Project or parking facilities);

(b) except as set forth in items (xii), (xiii), and (xiv) above, depreciation, interest and principal payments on mortgages and other debt costs, if any, penalties and interest;

(c) costs for which the Landlord is reimbursed by any tenant or occupant of the Project or by insurance by its carrier or any tenant's carrier or by anyone else, electric power costs for which any tenant directly contracts with the local public service company and costs of utilities and services provided to other tenants that are not provided to Tenant;

(d) any bad debt loss, rent loss, or reserves for bad debts or rent loss or other reserves to the extent not used in the same year;

(e) costs associated with the operation of the business of the partnership or entity which constitutes the Landlord, as the same are distinguished from the costs of operation of the Project (which shall specifically include, but not be limited to, accounting costs associated with the operation of the Project). Costs associated with the operation of the business of the partnership or entity which constitutes the Landlord include costs of partnership accounting and legal matters, costs of defending any lawsuits with any mortgagee (except as the actions of the Tenant may be in issue), costs of selling, syndicating, financing, mortgaging or hypothecating any of the Landlord's interest in the Project, and costs incurred in connection with any disputes between Landlord and its employees, between Landlord and Project management, or between Landlord and other tenants or occupants;

(f) the wages and benefits of any employee who does not devote substantially all of his or her employed time to the Project unless such wages and benefits are prorated to reflect time spent on operating and managing the Project vis-a-vis time spent on matters unrelated to operating and managing the Project; provided, that in no event shall Operating Expenses for purposes of this Lease include wages and/or benefits attributable to personnel above the level of Project manager;

(g) amount paid as ground rental for the Project by the Landlord;

(h) except for a property management fee not to exceed three percent (3%) of gross revenues, overhead and profit increment paid to the Landlord, and any amounts paid to the Landlord or to subsidiaries or affiliates of the Landlord for services in the Project to the extent the same exceeds the costs of such services rendered by qualified, first-class unaffiliated third parties on a competitive basis;

(i) any compensation paid to clerks, attendants or other persons in commercial concessions operated by the Landlord (other than as direct reimbursement for costs which, if incurred directly by Landlord, would properly be included in Operating Expenses);

(j) rentals and other related expenses incurred in leasing air conditioning systems, elevators or other equipment which if purchased the cost of which would be excluded from Operating Expenses as a capital cost, except equipment not affixed to the Project which is used in providing engineering, janitorial or similar services and, further excepting from this exclusion such equipment rented or leased to remedy or ameliorate an emergency condition in the Project;

(k) all items and services for which Tenant or any other tenant in the Project reimburses Landlord or which Landlord provides selectively to one or more tenants (other than Tenant) without reimbursement;

- (l) any costs expressly excluded from Operating Expenses elsewhere in this Lease;
  - (m) costs arising from the gross negligence or willful misconduct of Landlord or its agents, employees or contractors in connection with this Lease;
  - (n) costs incurred to comply with laws relating to the removal or remediation of hazardous material (as defined under applicable law), and any costs of fines or penalties relating to the presence of hazardous material, in each case to the extent not brought into the Building or Premises by Tenant or any Tenant Parties;
  - (o) costs to correct any construction defect in the Project or to remedy any violation of a covenant, condition, restriction, underwriter's requirement or law that exists as of the Lease Commencement Date;
  - (p) costs occasioned by casualties or condemnation;
  - (q) legal fees, accountants' fees (other than normal bookkeeping expenses) and other expenses incurred in connection with disputes of tenant or other occupants of the Project or associated with the enforcement of the terms of any leases with tenants or the defense of Landlord's title to or interest in the Project or any part thereof;
  - (r) costs incurred due to a violation by Landlord or any other tenant of the Project of the terms and conditions of a lease;
- and
- (s) self-insurance retentions and premiums for insurance coverage not customarily paid by tenants of similar projects in the vicinity of the Premises;
  - (t) rent or imputed rent for any office space in the Project occupied by Project property management personnel to the extent the size or rental rate of such office space exceeds the size or fair market rental value of office space occupied by management personnel of the comparable buildings in the vicinity of the Building, with adjustment where appropriate for the size of the applicable project, or rent or imputed rent for the Amenity Space at a rate that exceeds the Base Rent per rentable square foot payable by Tenant for the Premises in any Expense Year;
  - (u) costs to pursue any "green" certifications or initiatives not first required by law after the Effective Date or otherwise approved by Tenant; and
  - (v) costs incurred by Landlord during the first twelve (12) months of the Lease Term for Raccoon Repairs (as that term is defined in Section 7.3 below).

#### 4.2.5 **Taxes.**

4.2.5.1 "**Tax Expenses**" shall mean all federal, state, county, or local governmental or municipal taxes, fees, charges or other impositions of every kind and nature, whether general, special, ordinary or extraordinary (including, without limitation, real estate taxes, general and special assessments, transit taxes, leasehold taxes or taxes based upon the receipt of rent, including gross receipts or sales taxes applicable to the receipt of rent, unless required to be paid by Tenant, personal property taxes imposed upon the fixtures, machinery, equipment, apparatus, systems and equipment, appurtenances, furniture and other personal property used in connection with the Project, or any portion thereof), which shall be paid or accrued during any Expense Year (without regard to any different fiscal year used by such governmental or municipal authority) because of or in connection with the ownership, leasing and operation of the Project, or any portion thereof.

4.2.5.2 Tax Expenses shall include, without limitation: (i) any tax on the rent, right to rent or other income from the project, or any portion thereof, or as against the business of leasing the project, or any portion thereof; (ii) any assessment, tax, fee, levy or charge in addition to, or in substitution, partially or totally, of any assessment, tax, fee, levy or charge previously included within the definition of real property tax; (iii) any assessment, tax, fee, levy, or charge allocable to or measured by the area of the Premises or the Rent payable hereunder, including, without limitation, any business or gross income tax or excise tax with respect to the receipt of such rent, or upon or with respect to the possession, leasing, operating, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises, or any portion thereof; and (iv) any assessment, tax, fee, levy or



charge, upon this transaction or any document to which Tenant is a party, creating or transferring an interest or an estate in the Premises or the improvements thereon.

4.2.5.3 Any costs and expenses (including, without limitation, reasonable attorneys' and consultants' fees) incurred in attempting to protest, reduce or minimize Tax Expenses shall be included in Tax Expenses in the Expense Year such expenses are incurred. Tax refunds shall be credited against Tax Expenses and refunded to Tenant regardless of when received, based on the Expense Year to which the refund is applicable, provided that in no event shall the amount to be refunded to Tenant for any such Expense Year exceed the total amount paid by Tenant as Additional Rent under this Article 4 for such Expense Year. If Tax Expenses for any period during the Lease Term or any extension thereof are increased after payment thereof for any reason, including, without limitation, error or reassessment by applicable governmental or municipal authorities, Tenant shall pay Landlord upon demand Tenant's Share of any such increased Tax Expenses. Notwithstanding anything to the contrary contained in this Section 4.2.5, there shall be excluded from Tax Expenses (i) all excess profits taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, transfer taxes, estate taxes, federal and state income taxes, and other taxes to the extent applicable to Landlord's net income (as opposed to rents, receipts or income attributable to operations at the Project), (ii) any items included as Operating Expenses, (iii) any items paid by Tenant under Section 4.5 of this Lease, (iv) assessments in excess of the amount which would be payable if such assessment expense were paid in installments over the longest permitted term, (v) taxes imposed on land and improvements other than the Project and (vi) tax increases resulting from the improvement of any of the Project for the sole use of other occupants.

4.2.6 "**Tenant's Share**" shall mean the percentage set forth in Section 6 of the Summary.

4.3 **Allocation of Direct Expenses.** The parties acknowledge that the Building is a part of a multi-building project and that the costs and expenses incurred in connection with the Project (i.e., the Direct Expenses) should be shared between the Building and the other buildings in the Project. Accordingly, as set forth in Section 4.2 above, Direct Expenses (which consist of Operating Expenses and Tax Expenses) are determined annually for the Project as a whole, and a portion of the Direct Expenses, which portion shall be determined by Landlord on an equitable basis, shall be allocated to the Building (as opposed to other buildings in the Project). Such portion of Direct Expenses allocated to the Building shall include all Direct Expenses attributable solely to the Building and a pro rata portion of the Direct Expenses attributable to the Project as a whole, and shall not include Direct Expenses attributable solely to other buildings in the Project. Notwithstanding the foregoing, costs and expenses relating to the Amenity Space in any Expense Year shall be allocated to the Building based on the rentable square footage of the Building as a share of the total rentable square footage for the Project.

4.4 **Calculation and Payment of Additional Rent.** Commencing on the Lease Commencement Date, Tenant shall pay to Landlord, in the manner set forth in Section 4.4.1, below, and as Additional Rent, Tenant's Share of Direct Expenses for each Expense Year during the Lease Term.

4.4.1 **Statement of Actual Direct Expenses and Payment by Tenant.** Landlord shall give to Tenant within five (5) months following the end of each Expense Year (provided that Landlord agrees to utilize commercially reasonable efforts to deliver such Statement to Tenant as soon as practicable following the end of each Expense Year), a statement (the "**Statement**") which shall state the Direct Expenses incurred or accrued for such preceding Expense Year, and which shall indicate the amount of Tenant's Share of Direct Expenses. Upon receipt of the Statement for each Expense Year commencing or ending during the Lease Term, Tenant shall pay, with its next installment of Base Rent due that is at least thirty (30) days thereafter, the full amount of Tenant's Share of Direct Expenses for such Expense Year, less the amounts, if any, paid during such Expense Year as "**Estimated Direct Expenses**," as that term is defined in Section 4.4.2, below, and if Tenant paid more as Estimated Direct Expenses than the actual Tenant's Share of Direct Expenses, Tenant shall receive a credit in the amount of Tenant's overpayment against Rent next due under this Lease. The failure of Landlord to timely furnish the Statement for any Expense Year shall not prejudice Landlord or Tenant from enforcing its rights under this Article 4. Even though the Lease Term has expired and Tenant has vacated the Premises, when the final determination is made of Tenant's Share of Direct Expenses for the Expense Year in which this Lease terminates, Tenant shall immediately pay to Landlord such amount, and if Tenant paid more as Estimated Direct Expenses than the actual Tenant's Share of Direct Expenses, Landlord shall, within thirty (30) days, deliver a check payable to Tenant in the amount of the overpayment. The provisions of this Section 4.4.1 shall survive the expiration or earlier termination of the Lease

Term. Notwithstanding the immediately preceding sentence, Tenant shall not be responsible for Tenant's Share of any Direct Expenses attributable to any Expense Year which are first billed to Tenant more than two (2) calendar years after the earlier of the expiration of the applicable Expense Year or the Lease Expiration Date, provided that in any event Tenant shall be responsible for Tenant's Share of Direct Expenses levied by any governmental authority or by any public utility companies at any time following the Lease Expiration Date which are attributable to any Expense Year (provided that Landlord delivers Tenant a bill for such amounts within two (2) years following Landlord's receipt of the bill therefor).

4.4.2 **Statement of Estimated Direct Expenses.** In addition, Landlord shall give Tenant a yearly expense estimate statement (the "**Estimate Statement**") which shall set forth Landlord's reasonable estimate (the "**Estimate**") of what the total amount of Direct Expenses for the then-current Expense Year shall be and the estimated Tenant's Share of Direct Expenses (the "**Estimated Direct Expenses**"). Landlord shall utilize commercially reasonable efforts to deliver such Estimate Statement within five (5) months following the end of each Expense Year. The failure of Landlord to timely furnish the Estimate Statement for any Expense Year shall not preclude Landlord from enforcing its rights to collect any Estimated Direct Expenses under this Article 4, nor shall Landlord be prohibited from revising any Estimate Statement or Estimated Direct Expenses theretofore delivered to the extent necessary. Thereafter, Tenant shall pay, with its next installment of Base Rent due that is at least thirty (30) days thereafter, a fraction of the Estimated Direct Expenses for the then-current Expense Year (reduced by any amounts paid pursuant to the last sentence of this Section 4.4.2). Such fraction shall have as its numerator the number of months which have elapsed in such current Expense Year, including the month of such payment, and twelve (12) as its denominator. Until a new Estimate Statement is furnished (which Landlord shall have the right to deliver to Tenant at any time), Tenant shall pay monthly, with the monthly Base Rent installments, an amount equal to one-twelfth (1/12) of the total Estimated Direct Expenses set forth in the previous Estimate Statement delivered by Landlord to Tenant.

4.5 **Taxes and Other Charges for Which Tenant Is Directly Responsible.** Tenant shall be liable for and shall pay ten (10) days before delinquency, taxes levied against Tenant's equipment, furniture, fixtures and any other personal property located in or about the Premises. If any such taxes on Tenant's equipment, furniture, fixtures and any other personal property are levied against Landlord or Landlord's property or if the assessed value of Landlord's property is increased by the inclusion therein of a value placed upon such equipment, furniture, fixtures or any other personal property and if Landlord pays the taxes based upon such increased assessment, which Landlord shall have the right to do regardless of the validity thereof but only under proper protest if requested by Tenant, Tenant shall upon demand repay to Landlord the taxes so levied against Landlord or the proportion of such taxes resulting from such increase in the assessment, as the case may be.

4.6 **Landlord's Books and Records.** Within one hundred twenty (120) days after receipt by Tenant of a Statement, if Tenant disputes the amount of Additional Rent set forth in the Statement, a member of Tenant's finance department, or an independent certified public accountant (which accountant is a member of a nationally recognized accounting firm and is not working on a contingency fee basis) ("**Tenant's Accountant**"), designated and paid for by Tenant, may, after reasonable notice to Landlord and at reasonable times, inspect Landlord's records with respect to the Statement at Landlord's offices, provided that there is no existing Event of Default and Tenant has paid all amounts required to be paid under the applicable Estimate Statement and Statement, as the case may be. In connection with such inspection, Tenant and Tenant's agents must agree in advance to follow Landlord's reasonable rules and procedures regarding inspections of Landlord's records, and shall execute a commercially reasonable confidentiality agreement regarding such inspection. Tenant's failure to dispute the amount of Additional Rent set forth in any Statement within one hundred twenty (120) days of Tenant's receipt of such Statement shall be deemed to be Tenant's approval of such Statement and Tenant, thereafter, waives the right or ability to dispute the amounts set forth in such Statement. If after such inspection, Tenant still disputes such Additional Rent, a determination as to the proper amount shall be made, at Tenant's expense, by an independent certified public accountant (the "**Accountant**") selected by Landlord and subject to Tenant's reasonable approval; provided that if such Accountant determines that Direct Expenses were overstated by more than five percent (5%), then the cost of the Accountant and the cost of such determination shall be paid for by Landlord, and Landlord shall reimburse Tenant for the cost of the Tenant's Accountant (provided that such cost shall be a reasonable market cost for such services). Tenant hereby acknowledges that Tenant's sole right to inspect Landlord's books and records and to contest the amount of Direct Expenses payable by Tenant shall be as set forth in this Section 4.6, and Tenant hereby

waives any and all other rights pursuant to applicable law to inspect such books and records and/or to contest the amount of Direct Expenses payable by Tenant.

## 5. USE OF PREMISES

5.1 **Permitted Use.** Tenant shall use the Premises solely for the Permitted Use set forth in Section 7 of the Summary and Tenant shall not use or permit the Premises or the Project to be used for any other purpose or purposes whatsoever without the prior written consent of Landlord, which may be withheld in Landlord's sole discretion.

5.2 **Prohibited Uses.** Tenant further covenants and agrees that Tenant shall not use or permit any person or persons to use, the Premises or any part thereof for any use or purpose in violation of the laws of the United States of America, the State of California, or the ordinances, regulations or requirements of the local municipal or county governing body or other lawful authorities having jurisdiction over the Project) including, without limitation, any such laws, ordinances, regulations or requirements relating to hazardous materials or substances, as those terms are defined by applicable laws now or hereafter in effect. Landlord shall have the right to impose reasonable, nondiscriminatory and customary rules and regulations regarding the use of the Project that do not unreasonably interfere with Tenant's use of the Premises, as reasonably deemed necessary by Landlord with respect to the orderly operation of the Project, and Tenant shall comply with such reasonable rules and regulations. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of other tenants or occupants of the Project, or injure or annoy them or use or allow the Premises to be used for any improper, unlawful or objectionable purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. Tenant shall comply with, and Tenant's rights and obligations under the Lease and Tenant's use of the Premises shall be subject and subordinate to, all recorded easements, covenants, conditions, and restrictions now or hereafter affecting the Project, so long as the same do not unreasonably interfere with Tenant's use of the Premises or parking rights or materially increase Tenant's obligations or decrease Tenant's rights under this Lease.

### 5.3 **Hazardous Materials.**

#### 5.3.1 **Tenant's Obligations.**

5.3.1.1 **Prohibitions.** As a material inducement to Landlord to enter into this Lease with Tenant, Tenant has fully and accurately completed Landlord's Pre-Leasing Environmental Exposure Questionnaire (the "**Environmental Questionnaire**"), which is attached as **Exhibit E**. Tenant agrees that except for those chemicals or materials, and their respective quantities, specifically listed on the Environmental Questionnaire (as the same may be updated from time to time as provided below), neither Tenant nor Tenant's employees, contractors and subcontractors of any tier, entities with a contractual relationship with Tenant (other than Landlord), or any entity acting as an agent or sub-agent of Tenant (collectively, "**Tenant's Agents**") will produce, use, store or generate any "Hazardous Materials," as that term is defined below, on, under or about the Premises, nor cause any Hazardous Material to be brought upon, placed, stored, manufactured, generated, blended, handled, recycled, used or "Released," as that term is defined below, on, in, under or about the Premises. If any information provided to Landlord by Tenant on the Environmental Questionnaire, or otherwise relating to information concerning Hazardous Materials is intentionally false, incomplete, or misleading in any material respect, the same shall be deemed a default by Tenant under this Lease. Upon Landlord's request, or in the event of any material change in Tenant's use of Hazardous Materials in the Premises, Tenant shall deliver to Landlord an updated Environmental Questionnaire at least once a year. Tenant shall notify Landlord prior to using any Hazardous Materials in the Premises not described on the initial Environmental Questionnaire, and, to the extent such use would, in Landlord's reasonable judgment, cause a material increase in the risk of liability compared to the uses previously allowed in the Premises, such additional use shall be subject to Landlord's prior consent, which may be withheld in Landlord's reasonable discretion. Tenant shall not install or permit Tenant's Agents to install any underground storage tank on the Premises. For purposes of this Lease, "**Hazardous Materials**" means all flammable explosives, petroleum and petroleum products, waste oil, radon, radioactive materials, toxic pollutants, asbestos, polychlorinated biphenyls ("**PCBs**"), medical waste, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, including without limitation any chemical, element, compound, mixture, solution, substance, object, waste or any combination thereof, which is or may be hazardous to human health, safety or to the environment due to its radioactivity, ignitability,

corrosiveness, reactivity, explosiveness, toxicity, carcinogenicity, infectiousness or other harmful or potentially harmful properties or effects, or defined as, regulated as or included in, the definition of "hazardous substances," "hazardous wastes," "hazardous materials," or "toxic substances" under any Environmental Laws. For purposes of this Lease, "Release" or "Released" or "Releases" shall mean any release, deposit, discharge, emission, leaking, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing, or other movement of Hazardous Materials into the environment. Landlord acknowledges that Tenant may be installing and using fume hoods in the Premises and that emissions of Hazardous Materials into the air in compliance with all Environmental Laws shall not be considered Releases.

5.3.1.2 **Notices to Landlord.** Tenant shall notify Landlord in writing as soon as possible but in no event later than five (5) days after (i) Tenant becomes aware of the occurrence of any actual, alleged or threatened Release of any Hazardous Material in, on, under, from, about or in the vicinity of the Premises (whether past or present), regardless of the source or quantity of any such Release, or (ii) Tenant becomes aware of any regulatory actions, inquiries, inspections, investigations, directives, or any cleanup, compliance, enforcement or abatement proceedings (including any threatened or contemplated investigations or proceedings) relating to or potentially affecting the Premises, or (iii) Tenant becomes aware of any claims by any person or entity relating to any Hazardous Materials in, on, under, from, about or in the vicinity of the Premises, whether relating to damage, contribution, cost recovery, compensation, loss or injury. Collectively, the matters set forth in clauses (i), (ii) and (iii) above are hereinafter referred to as "**Hazardous Materials Claims**". Tenant shall promptly forward to Landlord copies of all orders, notices, permits, applications and other communications and reports in connection with any Hazardous Materials Claims. Additionally, Tenant shall promptly advise Landlord in writing of Tenant's discovery of any occurrence or condition on, in, under or about the Premises that could subject Tenant or Landlord to any liability, or restrictions on ownership, occupancy, transferability or use of the Premises under any "Environmental Laws," as that term is defined below. Tenant shall not enter into any legal proceeding or other action, settlement, consent decree or other compromise with respect to any Hazardous Materials Claims without first notifying Landlord of Tenant's intention to do so and affording Landlord the opportunity to join and participate, as a party if Landlord so elects, in such proceedings and in no event shall Tenant enter into any agreements which are binding on Landlord or the Premises without Landlord's prior written consent. Landlord shall have the right to appear at and participate in, any and all legal or other administrative proceedings concerning any Hazardous Materials Claim. For purposes of this Lease, "**Environmental Laws**" means all applicable present and future laws relating to the protection of human health, safety, wildlife or the environment, including, without limitation, (i) all requirements pertaining to reporting, licensing, permitting, investigation and/or remediation of emissions, discharges, Releases, or threatened Releases of Hazardous Materials, whether solid, liquid, or gaseous in nature, into the air, surface water, groundwater, or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of Hazardous Materials; and (ii) all requirements pertaining to the health and safety of employees or the public. Environmental Laws include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC § 9601, et seq., the Hazardous Materials Transportation Authorization Act of 1994, 49 USC § 5101, et seq., the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and Hazardous and Solid Waste Amendments of 1984, 42 USC § 6901, et seq., the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 USC § 1251, et seq., the Clean Air Act of 1966, 42 USC § 7401, et seq., the Toxic Substances Control Act of 1976, 15 USC § 2601, et seq., the Safe Drinking Water Act of 1974, 42 USC §§ 300f through 300j, the Occupational Safety and Health Act of 1970, as amended, 29 USC § 651 et seq., the Oil Pollution Act of 1990, 33 USC § 2701 et seq., the Emergency Planning and Community Right-To-Know Act of 1986, 42 USC § 11001 et seq., the National Environmental Policy Act of 1969, 42 USC § 4321 et seq., the Federal Insecticide, Fungicide and Rodenticide Act of 1947, 7 USC § 136 et seq., California Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health & Safety Code §§ 25300 et seq., Hazardous Materials Release Response Plans and Inventory Act, California Health & Safety Code, §§ 25500 et seq., Underground Storage of Hazardous Substances provisions, California Health & Safety Code, §§ 25280 et seq., California Hazardous Waste Control Law, California Health & Safety Code, §§ 25100 et seq., and any other state or local law counterparts, as amended, as such applicable laws, are in effect as of the Lease Commencement Date, or thereafter adopted, published, or promulgated.

5.3.1.3 **Releases of Hazardous Materials.** If any Release of any Hazardous Material in, on, under, from or about the Premises shall occur at any time during the Lease by Tenant or Tenant's Agents, in addition to notifying Landlord as specified above, Tenant, at its own sole cost and expense, shall (i) immediately

comply with any and all reporting requirements imposed pursuant to any and all Environmental Laws, (ii) provide a written certification to Landlord indicating that Tenant has complied with all applicable reporting requirements, (iii) take any and all necessary investigation, corrective and remedial action in accordance with any and all applicable Environmental Laws, utilizing an environmental consultant approved by Landlord, all in accordance with the provisions and requirements of this **Section 5.3**, including, without limitation, **Section 5.3.4**, and (iv) take any such additional investigative, remedial and corrective actions as Landlord shall in its reasonable discretion deem necessary such that the Premises are remediated to the condition existing prior to such Release.

#### 5.3.1.4 **Indemnification.**

5.3.1.4.1 **In General.** Without limiting in any way Tenant's obligations under any other provision of this Lease, Tenant shall be solely responsible for and shall protect, defend, indemnify and hold the Landlord Parties harmless from and against any and all claims, judgments, losses, damages, costs, expenses, penalties, enforcement actions, taxes, fines, remedial actions, liabilities (including, without limitation, actual attorneys' fees, litigation, arbitration and administrative proceeding costs, expert and consultant fees and laboratory costs) including, without limitation, consequential damages and sums paid in settlement of claims, which arise during or after the Lease Term, whether foreseeable or unforeseeable, that arise during or after the Lease Term in whole or in part, foreseeable or unforeseeable, directly or indirectly arising out of or attributable to the Release of Hazardous Materials in, on, under or about the Premises by Tenant or Tenant's Agents.

5.3.1.4.2 **Limitations.** Notwithstanding anything in **Section 5.3.1.4**, above, to the contrary, Tenant's indemnity of Landlord as set forth in **Section 5.3.1.4**, above, shall not be applicable to claims based upon Hazardous Materials not Released by Tenant or Tenant's Agents.

5.3.1.4.3 **Landlord Indemnity.** Under no circumstance shall Tenant be liable for, and Landlord shall indemnify, defend, protect and hold harmless Tenant and Tenant's Agents from and against, all losses, costs, claims, liabilities and damages (including attorneys' and consultants' fees) arising out of any Hazardous Materials that exist in, on or about the Project as of the date hereof, or Hazardous Material Released by Landlord or any Landlord Parties. Within thirty (30) days following the full execution and delivery of this Lease by Landlord and Tenant, Landlord shall provide Tenant with any environmental reports relating to the Project in Landlord's immediate possession. The provision of such reports shall be for informational purposes only, and Landlord does not make any representation or warranty as to the correctness or completeness of any such reports.

5.3.1.5 **Compliance with Environmental Laws.** Without limiting the generality of Tenant's obligation to comply with applicable laws as otherwise provided in this Lease, Tenant shall, at its sole cost and expense, comply with all Environmental Laws related to the use of Hazardous Materials by Tenant and Tenant's Agents. Tenant shall obtain and maintain any and all necessary permits, licenses, certifications and approvals appropriate or required for the use, handling, storage, and disposal of any Hazardous Materials used, stored, generated, transported, handled, blended, or recycled by Tenant on the Premises. Landlord shall have a continuing right, without obligation, to require Tenant to obtain, and to review and inspect any and all such permits, licenses, certifications and approvals, together with copies of any and all Hazardous Materials management plans and programs, any and all Hazardous Materials risk management and pollution prevention programs, and any and all Hazardous Materials emergency response and employee training programs respecting Tenant's use of Hazardous Materials. Upon request of Landlord, Tenant shall deliver to Landlord a narrative description explaining the nature and scope of Tenant's activities involving Hazardous Materials and showing to Landlord's satisfaction compliance with all Environmental Laws and the terms of this Lease.

#### 5.3.2 **Assurance of Performance.**

5.3.2.1 **Environmental Assessments In General.** Landlord may, but shall not be required to, engage from time to time such contractors as Landlord determines to be appropriate (and which are reasonably acceptable to Tenant) to perform environmental assessments of a scope reasonably determined by Landlord (an "**Environmental Assessment**") to ensure Tenant's compliance with the requirements of this Lease with respect to Hazardous Materials.

5.3.2.2 **Costs of Environmental Assessments.** All costs and expenses incurred by Landlord in connection with any such Environmental Assessment initially shall be paid by Landlord; provided that if any such Environmental Assessment shows that Tenant has failed to comply with the provisions of this **Section 5.3**,

then all of the costs and expenses of such Environmental Assessment shall be reimbursed by Tenant as Additional Rent within thirty (30) days after receipt of written demand therefor.

5.3.3 **Tenant's Obligations upon Surrender.** At the expiration or earlier termination of the Lease Term, Tenant, at Tenant's sole cost and expense, shall: (i) cause an Environmental Assessment of the Premises to be conducted in accordance with **Section 15.3**; (ii) cause all Hazardous Materials brought onto the Premises by Tenant or Tenant's Agents to be removed from the Premises and disposed of in accordance with all Environmental Laws and as necessary to allow the Premises to be used for the purposes allowed as of the date of this Lease; and (iii) cause to be removed all containers installed or used by Tenant or Tenant's Agents to store any Hazardous Materials on the Premises, and cause to be repaired any damage to the Premises caused by such removal.

5.3.4 **Clean-up.**

5.3.4.1 **Environmental Reports; Clean-Up.** If any written report, including any report containing results of any Environmental Assessment (an "**Environmental Report**") shall indicate (i) the presence of any Hazardous Materials as to which Tenant has a removal or remediation obligation under this **Section 5.3**, and (ii) that as a result of same, the investigation, characterization, monitoring, assessment, repair, closure, remediation, removal, or other clean-up (the "**Clean-up**") of any Hazardous Materials is required, Tenant shall immediately prepare and submit to Landlord within thirty (30) days after receipt of the Environmental Report a comprehensive plan, subject to Landlord's written approval, specifying the actions to be taken by Tenant to perform the Clean-up so that the Premises are restored to the conditions required by this Lease. Upon Landlord's approval of the Clean-up plan, Tenant shall, at Tenant's sole cost and expense, without limitation on any rights and remedies of Landlord under this Lease, immediately implement such plan with a consultant reasonably acceptable to Landlord and proceed to Clean-Up Hazardous Materials in accordance with all applicable laws. If, within thirty (30) days after receiving a copy of such Environmental Report, Tenant fails either (a) to complete such Clean-up, or (b) with respect to any Clean-up that cannot be completed within such thirty-day period, fails to proceed with diligence to prepare the Clean-up plan and complete the Clean-up as promptly as practicable, then Landlord shall have the right, but not the obligation, and without waiving any other rights under this Lease, to carry out any Clean-up recommended by the Environmental Report or required by any governmental authority having jurisdiction over the Premises, and recover all of the costs and expenses thereof from Tenant as Additional Rent, payable within ten (10) days after receipt of written demand therefor.

5.3.4.2 **No Rent Abatement.** Tenant shall continue to pay all Rent due or accruing under this Lease during any Clean-up, and shall not be entitled to any reduction, offset or deferral of any Base Rent or Additional Rent due or accruing under this Lease during any such Clean-up.

5.3.4.3 **Surrender of Premises.** Tenant shall complete any Clean-up prior to surrender of the Premises upon the expiration or earlier termination of this Lease. Tenant shall obtain and deliver to Landlord a letter or other written determination from the overseeing governmental authority confirming that the Clean-up has been completed in accordance with all requirements of such governmental authority and that no further response action of any kind is required for the unrestricted use of the Premises ("**Closure Letter**"). Upon the expiration or earlier termination of this Lease, Tenant shall also be obligated to close all permits obtained in connection with Hazardous Materials used by Tenant or Tenant's Agents in accordance with applicable laws.

5.3.4.4 **Failure to Timely Clean-Up.** Should any Clean-up for which Tenant is responsible not be completed, or should Tenant not receive the Closure Letter and any governmental approvals required under Environmental Laws in conjunction with such Clean-up prior to the expiration or earlier termination of this Lease, then, commencing on the later of the termination of this Lease and three (3) business days after Landlord's delivery of notice of such failure and that it elects to treat such failure as a holdover, Tenant shall be liable to Landlord as a holdover tenant (as more particularly provided in **Article 16**) until Tenant has fully complied with its obligations under this **Section 5.3**.

5.3.5 **Confidentiality.** Unless compelled to do so by applicable law, Tenant agrees that Tenant shall not disclose, discuss, disseminate or copy any information, data, findings, communications, conclusions and reports regarding the environmental condition of the Premises to any Person (other than Tenant's consultants, attorneys, property managers, employees, shareholders and potential and actual investors, lenders, business and merger partners, subtenants and assignees that have a need to know such information), including any governmental

authority, without the prior written consent of Landlord. In the event Tenant reasonably believes that disclosure is compelled by applicable law, it shall provide Landlord ten (10) days' advance notice of disclosure of confidential information so that Landlord may attempt to obtain a protective order. Tenant may additionally release such information to bona fide prospective purchasers or lenders, subject to any such parties' written agreement to be bound by the terms of this **Section 5.3**.

5.3.6 **Copies of Environmental Reports.** Within thirty (30) days of receipt thereof, Tenant shall provide Landlord with a copy of any and all environmental assessments, audits, studies and reports regarding Tenant's activities with respect to the Premises, or ground water beneath the Land, or the environmental condition or Clean-up thereof. Tenant shall be obligated to provide Landlord with a copy of such materials without regard to whether such materials are generated by Tenant or prepared for Tenant, or how Tenant comes into possession of such materials.

5.3.7 **Intentionally Omitted.**

5.3.8 **Signs, Response Plans, Etc.** Tenant shall be responsible for posting on the Premises any signs required under applicable Environmental Laws with respect to the use of Hazardous Materials by Tenant or Tenant's Agents. Tenant shall also complete and file any business response plans or inventories required by any applicable laws. Tenant shall concurrently file a copy of any such business response plan or inventory with Landlord.

5.3.9 **Survival.** Each covenant, agreement, representation, warranty and indemnification made by Tenant set forth in this **Section 5.3** shall survive the expiration or earlier termination of this Lease and shall remain effective until all of Tenant's obligations under this **Section 5.3** have been completely performed and satisfied.

5.4 **Generator.** Commencing on the Lease Commencement Date, Tenant shall have the right to connect to the existing Building back-up generator (the "**Generator**"), for Tenant's Share of the Generator's capacity to provide back-up generator services to the Premises. During the Lease Term, Landlord shall maintain the Generator in good condition and repair, and Tenant shall be responsible for a share of the costs of such maintenance and repair based on the proportion of the Generator capacity allocated to the Premises. Notwithstanding the foregoing, Landlord shall not be liable for any damages whatsoever resulting from any failure in operation of the Generator, or the failure of the Generator to provide suitable or adequate back-up power to the Premises, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring, or loss to inventory, scientific research, scientific experiments, laboratory animals, products, specimens, samples, and/or scientific, business, accounting and other records of every kind and description kept at the Premises and any and all income derived or derivable therefrom.

5.5 **Deionized Water System.** In the event Tenant wishes to install a deionized water system to serve the Premises (the "**Deionized Water System**") then subject to the receipt of all necessary approvals from the applicable governmental authority, Tenant shall have the right, at Tenant's sole cost and expense, to install such Deionized Water System in the Premises, or outside the Premises in the location adjacent to the loading dock where Prothena's existing system is located, as an Alteration (in which case such installation shall be governed by the terms of Article 8). In the event Tenant elects to exercise its right to install the Deionized Water System, then Tenant shall give Landlord prior notice thereof and such Deionized Water System shall be installed pursuant to plans and specifications approved by Landlord, which approval may be withheld in Landlord's reasonable discretion. In the event such Deionized Water System is installed, then during the Lease Term, Tenant shall maintain such Deionized Water System and Tenant shall be solely responsible for any and all costs incurred or arising in connection with the Deionized Water System, including but not limited to costs of insurance related thereto. Landlord makes no representations or warranties whatsoever with respect to the condition of any of the areas upon which the Deionized Water System will be located, or their suitability for the installation, maintenance and operation of the Deionized Water System. The physical appearance and the size of any of the Deionized Water System shall be subject to Landlord's reasonable approval and Landlord may require Tenant to install screening around such Deionized Water System, at Tenant's sole cost and expense. Tenant's obligations with respect to the Premises, including the insurance and indemnification obligations contained in **Article 10**, below, shall apply to Tenant's use of the Deionized Water System and Tenant shall carry industry standard insurance covering the Deionized Water System. Tenant shall maintain any and all required permits in connection with the Deionized Water System

throughout the Lease Term. Landlord and Tenant hereby acknowledge and agree that Landlord shall have no liability in connection with Tenant's use, maintenance and/or repair of such Deionized Water System. Such Deionized Water System shall, in all instances, comply with all Applicable Laws, and Tenant shall remain solely responsible for the compliance of such Deionized Water System with all Applicable Laws. Bearing in mind that this is a multi-tenant Building, and that Tenant has, amongst other things, agreed not to obstruct or interfere with the rights of other tenants or occupants of the Building, Tenant hereby agrees to use commercially reasonable efforts to mitigate any noise and vibrations which may be produced from the Deionized Water System. If installed, at Landlord's election prior to the expiration or earlier termination of this Lease, Tenant shall either (A) leave the Deionized Water System in place, in which event Tenant shall surrender the Deionized Water System concurrent with the surrender of the Premises to Landlord as required hereunder in good operating and working order, with all permits current, or (B) remove the Deionized Water System prior to the expiration or earlier termination of this Lease, and repair all damage to the Building and Premises resulting from such removal, at Tenant's sole cost and expense. In the event that Landlord fails to expressly elect to have the Deionized Water System left in place upon the expiration or earlier termination of this Lease at least ninety (90) days prior to the expiration of this Lease, then Landlord shall be deemed to have elected to have Tenant remove such Deionized Water System.

## 6. SERVICES AND UTILITIES

6.1 **In General.** Landlord will be responsible, at Tenant's sole cost and expense (subject to the terms of Section 4.2.4 above), for the furnishing of heating, ventilation and air-conditioning, electricity and water services to the Premises, while Tenant shall be responsible for the maintenance (and replacement, if necessary) of the nitrogen, clean dry air and house vacuum services to the Premises. Landlord shall not provide janitorial services for the Premises. Tenant shall be solely responsible for performing all janitorial services and other cleaning of the Premises, all in compliance with applicable laws. The janitorial and cleaning of the Premises shall be adequate to maintain the Premises in a manner consistent with First Class Life Sciences Projects.

Tenant shall cooperate fully with Landlord at all times and abide by all reasonable regulations and requirements that Landlord may reasonably prescribe for the proper functioning and protection of the HVAC, electrical, mechanical and plumbing systems. Provided that Landlord agrees to provide and maintain and keep in continuous service utility connections to the Project, including electricity, water and sewage connections, Landlord shall have no obligation to provide any services or utilities to the Building, including, but not limited to heating, ventilation and air-conditioning, electricity, water, telephone, janitorial and interior Building security services, except as set forth in this Section 6.1, above.

6.2 **Tenant Payment of Utilities Costs.** After the Lease Commencement Date, to the extent that any utilities (including without limitation, electricity, gas, sewer and water) to the Building are separately metered or sub-metered to the Premises, such utilities shall either be contracted for and paid directly by Tenant to the applicable utility provider, or reimbursed by Tenant to Landlord within thirty (30) days after billing. After the Lease Commencement Date, to the extent that any utilities (including without limitation, electricity, gas, sewer and water) to the Building are not separately metered to the Premises, then Tenant shall pay to Landlord, within thirty (30) days after billing, an equitable portion of the Building utility costs, based on Tenant's proportionate use thereof. In connection with the foregoing, as of the date of this Lease the Building is not separately metered, and to the extent Landlord elects to install any submeters on the Building Systems (at its sole discretion), such installation shall be at Landlord's sole cost and expense (not to be included in Operating Expenses).

6.3 **Interruption of Use.** Tenant agrees that Landlord shall not be liable for damages, by abatement of Rent or otherwise, for failure to furnish or delay in furnishing any service (including telephone and telecommunication services), or for any diminution in the quality or quantity thereof, when such failure or delay or diminution is occasioned, in whole or in part, by breakage, repairs, replacements, or improvements, by any strike, lockout or other labor trouble, by inability to secure electricity, gas, water, or other fuel at the Building or Project after reasonable effort to do so, by any riot or other dangerous condition, emergency, accident or casualty whatsoever, by act or default of Tenant or other parties, or by any other cause; and such failures or delays or diminution shall never be deemed to constitute an eviction or disturbance of Tenant's use and possession of the Premises or relieve Tenant from paying Rent or performing any of its obligations under this Lease. Notwithstanding the foregoing, Landlord may be liable for damages to the extent caused by the negligence or willful misconduct of Landlord or the Landlord Parties, provided that Landlord shall not be liable under any circumstances for injury to, or



interference with, Tenant's business, including, without limitation, loss of profits, however occurring, through or in connection with or incidental to a failure to furnish any of the services or utilities as set forth in this Article 6.

6.4 **Building Energy Information.** Tenant hereby acknowledges that Landlord may request certain information concerning the energy performance of the Building and Tenant's energy usage, and that Tenant shall reasonably cooperate with Landlord and provide such information within a reasonable time period following such request by Landlord, provided that Landlord hereby agrees to maintain the confidentiality of such information, except (i) to the extent Landlord is required by Applicable Laws to disclose such information; (ii) Landlord may use such information for purposes of monitoring and improving environmental performance of the Building; and (iii) Landlord may use such information on an aggregated or whole Building basis, or to the extent Tenant leases the entire Building or is otherwise the only Tenant in the Building, then on a whole Project basis (without identifying Tenant's specific energy usage) for purposes of measuring and reporting on environmental performance of the Building as may be required by Landlord's voluntary climate reporting obligations.

## 7. REPAIRS

7.1 **Tenant Repair Obligations.** Tenant shall, throughout the Term, at its sole cost and expense, maintain, repair, or replace as required, the Premises, including all improvements, fixtures, furnishings and finishes therein, in a good standard of maintenance, repair and replacement as required, and in good and sanitary condition, all in accordance with the standards of First Class Life Sciences Projects, except for Landlord Repair Obligations, whether or not such maintenance, repair, replacement or improvement is required in order to comply with applicable Laws ("**Tenant's Repair Obligations**"), including, without limitation (i) any specialty or supplemental Building systems installed by or for Tenant and (ii) all electrical facilities and equipment, including lighting fixtures, lamps, fans and any exhaust equipment and systems, electrical motors and all other appliances and equipment of every kind and nature located in, upon or about the Premises; (iii) all communications systems serving the Premises; (iv) all of Tenant's security systems in or about or serving the Premises; (v) Tenant's signage; and (vi) interior demising walls and partitions (including painting and wall coverings), and interior doors and door fixtures. Tenant shall additionally be responsible, at Tenant's sole cost and expense, to furnish all expendables, including light bulbs, paper goods and soaps, used in the Premises.

7.2 **Landlord's Right to Perform Tenant's Repair Obligations.** Tenant shall notify Landlord in writing at least ten (10) business days prior to performing any Tenant's Repair Obligation which may have a material, adverse effect on the Building Systems or which is reasonably anticipated to cost more than \$100,000.00. Upon receipt of such notice from Tenant, Landlord shall have the right to either (i) perform such material Tenant's Repair Obligation by delivering notice of such election to Tenant within ten (10) business days following receipt of Tenant's notice, and Tenant shall pay Landlord the cost thereof (including Landlord's reasonable out-of-pocket costs incurred in connection therewith) within thirty (30) days after receipt of an invoice therefor, or (ii) require Tenant to perform such Tenant's Repair Obligation at Tenant's sole cost and expense. If Tenant fails to perform any Tenant's Repair Obligation within a reasonable time period after written notice thereof from Landlord, as reasonably determined by Landlord, then Landlord may, but need not, following delivery of notice to Tenant of such election, make such Tenant Repair Obligation, and Tenant shall pay Landlord the cost thereof, (including Landlord's reasonable supervision fee) within thirty (30) days after receipt of an invoice therefor.

7.3 **Landlord Repair Obligations.** Landlord shall be responsible, as a part of Operating Expenses (to the extent allowed per Article 4 above), for the following (collectively, the "**Landlord Repair Obligations**") (i) repairs to the exterior walls, foundation and roof of the Building, the structural portions of the floors of the Building, including, without limitation, any painting, sealing, patching and waterproofing of exterior walls, except to the extent that such repairs are required due to the negligence or willful misconduct of Tenant, including as necessary in connection with any intrusion into the Building by raccoons (such obligations, the "**Raccoon Repairs**"), and (ii) for the repair and maintenance of the Building, including, without limitation, the following: (1) glass, windows, window frames, window casements (including the repairing, resealing, cleaning and replacing of exterior windows) and skylights; (2) exterior doors, door frames and door closers; (3) plumbing, sewer lines exterior to the Premises and exterior Building drainage, (4) electrical service to the Building (but not within the Premises), Building fire protection systems (but not interior Premises systems), elevator, Building life safety and security systems and equipment, existing Building heating, ventilation and air-conditioning ("**HVAC**") systems, and all other Building mechanical, electrical and communications systems and equipment other than the nitrogen, clean dry air, house

vacuum and Deionized Water System (if installed) exclusively serving the Premises, which shall be maintained by Tenant (collectively, the "**Building Systems**"), including the non-structural portions of the roof of the Building, including the roof membrane and coverings; provided, however, that if such repairs are due to the negligence or willful misconduct of Tenant, Landlord shall nevertheless make such repairs at Tenant's expense, or, if covered by Landlord's insurance, Tenant shall only be obligated to pay any deductible in connection therewith. Landlord shall cooperate with Tenant to enforce any warranties that Landlord holds that could reduce Tenant's maintenance obligations under this Lease. Tenant hereby waives any and all rights under and benefits of subsection 1 of Section 1932 and Sections 1941 and 1942 of the California Civil Code or under any similar law, statute, or ordinance now or hereafter in effect.

7.4 **Tenant's Right to Make Repairs.** Notwithstanding any of the terms set forth in this Lease to the contrary, if (i) Tenant provides notice ("**Tenant Repair Notice**") in writing to Landlord of an event or circumstance which constitutes a Tenant Repairable Circumstance (as hereinafter defined), and (ii) Landlord fails to commence corrective action within a reasonable period of time, given the circumstances, after the receipt of such notice, but in any event not later than thirty (30) days after receipt of such notice (unless Landlord's obligation cannot reasonably be performed within thirty (30) days, in which event Landlord shall be allowed additional time as is reasonably necessary to perform the obligation so long as Landlord begins performance within the initial thirty (30) days and diligently pursues performance to completion), then Tenant may proceed to take the necessary corrective action upon delivery of an additional seven (7) business days' notice to Landlord specifying that Tenant is taking such corrective action if Landlord fails to timely do so (provided that such notice shall expressly reference this Section 7.4 and include the following language in bold, capitalized text: "**IF LANDLORD FAILS TO COMMENCE THE REPAIRS DESCRIBED IN THIS NOTICE WITHIN SEVEN (7) BUSINESS DAYS FROM LANDLORD'S RECEIPT OF THIS NOTICE, TENANT WILL PERFORM SUCH REPAIRS AT LANDLORD'S EXPENSE**"). Notwithstanding any of the terms set forth in this Lease to the contrary, if, the Tenant Repairable Circumstance constitutes an Emergency (as hereinafter defined), and if Tenant indicates in the Tenant Repair Notice that the Tenant Repairable Circumstance constitutes an Emergency, and if Landlord fails to commence corrective action within a reasonable period of time given the existence and nature of the Emergency (or fails to diligently pursue such corrective action to completion within a reasonable period of time given the existence and nature of the Emergency), then Tenant may proceed to take the necessary corrective action upon delivery of an additional notice to Landlord prior to or concurrently with Tenant's taking such action specifying that Tenant is taking such corrective action. If Tenant has the right pursuant to either or both of the preceding sentences to take corrective action to address a Tenant Repairable Circumstance, Tenant shall be entitled to prompt reimbursement by Landlord of Tenant's reasonable costs and expenses in taking such action plus interest thereon at the Interest Rate. In the event Tenant takes such action, Tenant shall use only those contractors used by Landlord in the Building for work unless such contractors are unwilling or unable to perform, or timely perform, such work, in which event Tenant may utilize the services of any other qualified contractor which normally and regularly performs similar work in First Class Life Sciences Projects. Promptly following completion of any work taken by Tenant pursuant to the Terms of this Section 7.4, Tenant shall deliver a detailed invoice of the work completed, the materials used and the costs relating thereto. If Landlord does not deliver a detailed written objection to Tenant within thirty (30) days after receipt of an invoice from Tenant, then Tenant shall be entitled to deduct from Rent payable by Tenant under this Lease, the amount set forth in such invoice. If, however, Landlord delivers to Tenant, within thirty (30) days after receipt of Tenant's invoice, a written objection to the payment of such invoice, setting forth with reasonable particularity Landlord's reasons for its claim that such action did not have to be taken by Landlord pursuant to the terms of this Lease or that the charges are excessive (in which case Landlord shall pay the amount it contends would not have been excessive), then Tenant shall not then be entitled to such deduction from Rent; provided, however, that Tenant may proceed to claim a default by Landlord. If Tenant prevails with regard to such claim, the amount of the award (which shall include interest at the Interest Rate from the time of each expenditure by Tenant until the date Tenant receives such amount by payment or offset, as well as attorneys' fees and related costs) may be deducted by Tenant from the Rent next due and owing under this Lease. As used herein, the term "**Tenant Repairable Circumstance**" shall mean a Landlord Repair Obligation, the repair of which can be accomplished without adversely impacting other tenants in the Building and/or Building Systems serving tenants other than Tenant, and the failure by Landlord to perform will materially or adversely affects the conduct of Tenant's business in the Premises, and the term "**Emergency**" shall mean an event threatening immediate and material danger to people located in the Building or immediate and substantial damage to Tenant's property or the Premises. Tenant's

indemnification obligations set forth in this Lease shall apply to any exercise of Tenant's rights pursuant to the terms of this Section 7.4.

## 8. ADDITIONS AND ALTERATIONS

8.1 **Landlord's Consent to Alterations.** Tenant may not make any improvements, alterations, additions or changes to the Premises or any mechanical, plumbing or HVAC facilities or systems pertaining to the Premises (collectively, the "**Alterations**") without first procuring the prior written consent of Landlord to such Alterations, which consent shall be requested by Tenant not less than ten (10) business days prior to the commencement thereof, and which consent shall not be unreasonably withheld by Landlord, provided it shall be deemed reasonable for Landlord to withhold its consent to any Alteration which adversely affects the structural portions or the systems or equipment of the Building or is visible from the exterior of the Building. Notwithstanding the foregoing, Tenant shall be permitted to make Alterations following ten (10) business days' notice to Landlord (as to Alterations costing more than \$10,000 only), but without Landlord's prior consent, to the extent that such Alterations (i) do not affect the building systems or equipment (other than minor changes such as adding or relocating electrical outlets and thermostats), (ii) are not visible from the exterior of the Building, and (iii) cost less than \$50,000.00 for a particular job of work. The construction of the Tenant Improvements to the Premises shall be governed by the terms of the Tenant Work Letter and not the terms of this Article 8.

8.2 **Manner of Construction.** Landlord may impose, as a condition of its consent to any and all Alterations or repairs of the Premises or about the Premises, such requirements as Landlord in its reasonable discretion may deem desirable, including, but not limited to, the requirement that upon Landlord's request, Tenant shall, at Tenant's expense, remove such Alterations upon the expiration or any early termination of the Lease Term. Tenant shall construct such Alterations and perform such repairs in a good and workmanlike manner, in conformance with any and all applicable federal, state, county or municipal laws, rules and regulations and pursuant to a valid building permit, issued by the city in which the Building is located (or other applicable governmental authority). Tenant shall not use (and upon notice from Landlord shall cease using) contractors, services, workmen, labor, materials or equipment that, in Landlord's reasonable judgment, would disturb labor harmony with the workforce or trades engaged in performing other work, labor or services in or about the Building or the Common Areas. Upon completion of any Alterations, Tenant shall deliver to Landlord final lien waivers from all contractors, subcontractors and material men who performed such work. In addition to Tenant's obligations under Article 9 of this Lease, upon completion of any Alterations, Tenant agrees to cause a Notice of Completion to be recorded in the office of the Recorder of the County of San Mateo in accordance with Section 3093 of the Civil Code of the State of California or any successor statute, and Tenant shall deliver to the Project construction manager a reproducible copy of the "**as built**" drawings of the Alterations as well as all permits, approvals and other documents issued by any governmental agency in connection with the Alterations.

8.3 **Payment for Improvements.** In connection with any Alterations that affect the Building systems (other than minor changes such as adding or relocating electrical outlets and thermostats), or which have a cost in excess of \$100,000, Tenant shall reimburse Landlord for Landlord's reasonable, actual, out-of-pocket costs and expenses actually incurred in connection with Landlord's review of the plans for such work.

8.4 **Construction Insurance.** In addition to the requirements of Article 10 of this Lease, in the event that Tenant makes any Alterations as to which Tenant is required to obtain Landlord's consent or provide Landlord with notice, prior to the commencement of such Alterations, Tenant shall provide Landlord with evidence that Tenant or Tenant's contractor carries "**Builder's All Risk**" insurance (to the extent that the cost of such work shall exceed \$50,000) in an amount approved by Landlord covering the construction of such Alterations, and such other insurance as Landlord may reasonably require, it being understood and agreed that all of such Alterations shall be insured by Landlord pursuant to Article 10 of this Lease immediately upon completion thereof. In addition, Tenant's contractors and subcontractors shall be required to carry Commercial General Liability Insurance in an amount approved by Landlord and otherwise in accordance with the requirements of Article 10 of this Lease.

8.5 **Landlord's Property.** All Alterations, improvements, fixtures, equipment and/or appurtenances which may be installed or placed in or about the Premises, from time to time, shall be at the sole cost of Tenant and all Alterations and improvements, shall be and become the property of Landlord and remain in place at the Premises following the expiration or earlier termination of this Lease. Notwithstanding the foregoing, Landlord may, by written notice to Tenant given at the time it consents to an Alteration, require Tenant, at Tenant's expense, to remove

any Alterations within the Premises and to repair any damage to the Premises and Building caused by such removal. If Tenant fails to complete such removal and/or to repair any damage caused by the removal of any Alterations, Landlord may do so and may charge the cost thereof to Tenant. Tenant hereby protects, defends, indemnifies and holds Landlord harmless from any liability, cost, obligation, expense or claim of lien in any manner relating to the installation, placement, removal or financing of any such Alterations, improvements, fixtures and/or equipment in, on or about the Premises, which obligations of Tenant shall survive the expiration or earlier termination of this Lease. Notwithstanding the foregoing, except to the extent the same are paid for by the Tenant Improvement Allowance, the items set forth in **Exhibit G** attached hereto (the "**Tenant's Property**") shall at all times be and remain Tenant's property. **Exhibit G** may be updated from time to time by agreement of the parties. Tenant may remove the Tenant's Property from the Premises at any time, provided that Tenant repairs all damage caused by such removal. Landlord shall have no lien or other interest in the Tenant's Property.

**9. COVENANT AGAINST LIENS** Tenant shall keep the Project and Premises free from any liens or encumbrances arising out of the work performed, materials furnished or obligations incurred by or on behalf of Tenant, and shall protect, defend, indemnify and hold Landlord harmless from and against any claims, liabilities, judgments or costs (including, without limitation, reasonable attorneys' fees and costs) arising out of same or in connection therewith. Except as to Alterations as to which no notice is required under the second sentence of Section 8.1, Tenant shall give Landlord notice at least ten (10) business days prior to the commencement of any such work on the Premises (or such additional time as may be necessary under applicable laws) to afford Landlord the opportunity of posting and recording appropriate notices of non-responsibility (to the extent applicable pursuant to then applicable laws). Tenant shall remove any such lien or encumbrance by bond or otherwise within ten (10) business days after notice by Landlord, and if Tenant shall fail to do so, Landlord may pay the amount necessary to remove such lien or encumbrance, without being responsible for investigating the validity thereof.

## **10. INSURANCE**

**10.1 Indemnification and Waiver.** Except as provided in **Section 10.5** or to the extent due to the negligence, willful misconduct or violation of this Lease by Landlord or the Landlord Parties, Tenant hereby assumes all risk of damage to property in, upon or about the Premises from any cause whatsoever (including, but not limited to, any personal injuries resulting from a slip and fall in, upon or about the Premises) and agrees that Landlord, its partners, subpartners and their respective officers, agents, servants, employees, and independent contractors (collectively, "**Landlord Parties**") shall not be liable for, and are hereby released from any responsibility for, any damage either to person or property or resulting from the loss of use thereof, which damage is sustained by Tenant or by other persons claiming through Tenant. Tenant shall indemnify, defend, protect, and hold harmless the Landlord Parties from any and all loss, cost, damage, expense and liability (including without limitation court costs and reasonable attorneys' fees) incurred in connection with or arising from any cause in or on the Premises (including, but not limited to, a slip and fall), any acts, omissions or negligence of Tenant or of any person claiming by, through or under Tenant, or of the contractors, agents, servants, employees, invitees, guests or licensees of Tenant or any such person, in, on or about the Project or any breach of the terms of this Lease, either prior to, during, or after the expiration of the Lease Term, provided that the terms of the foregoing indemnity and release shall not apply to the negligence or willful misconduct of Landlord or its agents, employees, contractors, licensees or invitees, or Landlord's violation of this Lease. Should Landlord be named as a defendant in any suit brought against Tenant in connection with or arising out of Tenant's occupancy of the Premises, Tenant shall pay to Landlord its costs and expenses incurred in such suit, including without limitation, its actual professional fees such as reasonable appraisers', accountants' and attorneys' fees. Notwithstanding anything to the contrary in this Lease, Landlord shall not be released or indemnified from, and shall indemnify, defend, protect and hold harmless Tenant from, all losses, damages, liabilities, claims, attorneys' fees, costs and expenses arising from the gross negligence or willful misconduct of Landlord or its agents, contractors, licensees or invitees, or a violation of Landlord's obligations or representations under this Lease. The provisions of this **Section 10.1** shall survive the expiration or sooner termination of this Lease with respect to any claims or liability arising in connection with any event occurring prior to such expiration or termination.

**10.2 Tenant's Compliance With Landlord's Property Insurance.** Landlord shall insure the Building, Tenant Improvements and any Alterations during the Lease Term against loss or damage under an "all risk" property insurance policy. Such coverage shall be in such amounts, from such companies, and on such other terms and conditions, as Landlord may from time to time reasonably determine. Additionally, at the option of

Landlord, such insurance coverage may include the risks of earthquakes and/or flood damage and additional hazards, a rental loss endorsement and one or more loss payee endorsements in favor of the holders of any mortgages or deeds of trust encumbering the interest of Landlord in the Building or the ground or underlying lessors of the Building, or any portion thereof. The costs of such insurance shall be included in Operating Expenses, subject to the terms of Section 4.2.4. Tenant shall, at Tenant's expense, comply with all insurance company requirements pertaining to the use of the Premises. If Tenant's conduct or use of the Premises causes any increase in the premium for such insurance policies then Tenant shall reimburse Landlord for any such increase. Tenant, at Tenant's expense, shall comply with all rules, orders, regulations or requirements of the American Insurance Association (formerly the National Board of Fire Underwriters) and with any similar body. Notwithstanding anything to the contrary in this Lease, Tenant shall not be required to comply with or cause the Premises to comply with any laws, rules, regulations or insurance requirements requiring the construction of alterations unless such compliance is necessitated solely due to Tenant's particular use of the Premises.

10.3 **Tenant's Insurance.** Tenant shall maintain the following coverages in the following amounts.

10.3.1 Commercial General Liability Insurance on an occurrence form covering the insured against claims of bodily injury and property damage (including loss of use thereof) arising out of Tenant's operations, and contractual liabilities including a contractual coverage for limits of liability (which limits may be met together with umbrella liability insurance) of not less than:

Bodily Injury and Property Damage Liability	\$5,000,000 each occurrence \$5,000,000 annual aggregate
Personal Injury Liability	\$3,000,000 each occurrence \$3,000,000 annual aggregate

10.3.2 Property Insurance covering all office furniture, business and trade fixtures, office and lab equipment, free-standing cabinet work, movable partitions, merchandise and all other items of Tenant's property on the Premises installed by, for, or at the expense of Tenant. Such insurance shall be written on an "**all risks**" of physical loss or damage basis, for the full replacement cost value (subject to reasonable deductible amounts) new without deduction for depreciation of the covered items and in amounts that meet any co-insurance clauses of the policies of insurance and shall include coverage for damage or other loss caused by fire or other peril including, but not limited to, vandalism and malicious mischief, theft, water damage (excluding flood), including sprinkler leakage, bursting or stoppage of pipes, and explosion, and providing business interruption coverage for a period of ninety (90) days.

10.3.3 Business Income Interruption for ninety (90) days plus Extra Expense insurance in such amounts as will reimburse Tenant for actual direct or indirect loss of earnings attributable to the risks outlined in Section 10.3.2 above.

10.3.4 Worker's Compensation and Employer's Liability or other similar insurance pursuant to all applicable state and local statutes and regulations. The policy shall include a waiver of subrogation in favor of Landlord, its employees, Lenders and any property manager or partners.

10.4 **Form of Policies.** The minimum limits of policies of insurance required of Tenant under this Lease shall in no event limit the liability of Tenant under this Lease. Such insurance shall (i) name Landlord, its subsidiaries and affiliates, its property manager (if any) and any other party the Landlord so specifies, as an additional insured on the liability insurance, including Landlord's managing agent, if any; (ii) be issued by an insurance company having a rating of not less than A-:VII in Best's Insurance Guide or which is otherwise acceptable to Landlord and authorized to do business in the State of California; and (iv) be primary insurance as to all claims thereunder and provide that any insurance carried by Landlord is excess and is non-contributing with any insurance required of Tenant. Tenant shall not cause said insurance to be canceled or coverage changed unless thirty (30) days' prior written notice shall have been given to Landlord and any mortgagee of Landlord (unless such cancellation is the result of non-payment of premiums, in which case not less than five (5) days' notice shall be provided). Tenant shall deliver said policy or policies or certificates thereof to Landlord on or before the Lease Commencement Date and at renewal dates thereof. In the event Tenant shall fail to procure such insurance, or to

deliver such policies or certificate, Landlord may, at its option, procure such policies for the account of Tenant, and the cost thereof shall be paid to Landlord within five (5) days after delivery to Tenant of bills therefor.

10.5 **Subrogation.** Landlord and Tenant hereby agree to look solely to, and seek recovery only from, their respective insurance carriers in the event of a property or business interruption loss to the extent that such coverage is agreed to be provided hereunder, notwithstanding the negligence of either party. Notwithstanding anything to the contrary in this Lease, the parties each hereby waive all rights and claims against each other for such losses, and waive all rights of subrogation of their respective insurers. The parties agree that their respective insurance policies do now, or shall, contain the waiver of subrogation.

10.6 **Additional Insurance Obligations.** Tenant shall carry and maintain during the entire Lease Term, at Tenant's sole cost and expense, increased amounts of the insurance required to be carried by Tenant pursuant to this Article 10 and such other reasonable types of insurance coverage and in such reasonable amounts covering the Premises and Tenant's operations therein, as may be reasonably requested by Landlord or Landlord's lender, but in no event in excess of the amounts and types of insurance then being required by landlords of buildings comparable to and in the vicinity of the Building.

## **11. DAMAGE AND DESTRUCTION**

11.1 **Repair of Damage to Premises by Landlord.** Tenant shall promptly notify Landlord of any damage to the Premises resulting from fire or any other casualty. If the Premises or any Common Areas serving or providing access to the Premises shall be damaged by fire or other casualty, Landlord shall promptly and diligently, subject to reasonable delays for insurance adjustment or other matters beyond Landlord's reasonable control, and subject to all other terms of this Article 11, restore the Premises and such Common Areas. Such restoration shall be to substantially the same condition of the Premises and the Common Areas prior to the casualty, except for modifications required by zoning and building codes and other laws or any other modifications to the Common Areas deemed desirable by Landlord, which are consistent with the character of the Project, provided that access to the Premises shall not be materially impaired. Landlord shall not be liable for any inconvenience or annoyance to Tenant or its visitors, or injury to Tenant's business resulting in any way from such damage or the repair thereof; provided however, that if such fire or other casualty shall have damaged the Premises or Common Areas necessary to Tenant's occupancy, and the damaged portions of the Premises are not occupied by Tenant as a result thereof, then during the time and to the extent the Premises are unfit for occupancy, the Rent shall be abated in proportion to the ratio that the amount of rentable square feet of the Premises which is unfit for occupancy for the purposes permitted under this Lease bears to the total rentable square feet of the Premises.

11.2 **Landlord's Option to Repair.** Notwithstanding the terms of Section 11.1 of this Lease, Landlord may elect not to rebuild and/or restore the Premises, Building and/or Project, and instead terminate this Lease, by notifying Tenant in writing of such termination within sixty (60) days after the date of discovery of the damage, such notice to include a termination date giving Tenant sixty (60) days to vacate the Premises, but Landlord may so elect only if the Building shall be damaged by fire or other casualty or cause, and one or more of the following conditions is present: (i) in Landlord's reasonable judgment, repairs cannot reasonably be completed within one (1) year after the date of discovery of the damage (when such repairs are made without the payment of overtime or other premiums); (ii) the damage is due to a risk that Landlord is not required to insure under this Lease, and the cost of restoration exceed five percent (5%) of the replacement cost of the Building (unless Tenant agrees to pay any uninsured amount in excess of such five percent (5%)); or (iii) the damage occurs during the last twelve (12) months of the Lease Term and will take more than sixty (60) days to restore; provided, however, that if Landlord does not elect to terminate this Lease pursuant to Landlord's termination right as provided above, and the repairs cannot, in the reasonable opinion of Landlord, be completed within seven (7) months after the date of discovery of the damage (or are not in fact completed within eight (8) months after the date of discovery of the damage), Tenant may elect, no earlier than sixty (60) days after the date of the damage and not later than ninety (90) days after the date of such damage, or within thirty (30) days after such repairs are not timely completed, to terminate this Lease by written notice to Landlord effective as of the date specified in the notice, which date shall not be less than thirty (30) days nor more than sixty (60) days after the date such notice is given by Tenant.

11.3 **Waiver of Statutory Provisions.** The provisions of this Lease, including this Article 11, constitute an express agreement between Landlord and Tenant with respect to any and all damage to, or destruction of, all or any part of the Premises, the Building or the Project, and any statute or regulation of the State of California,

including, without limitation, Sections 1932(2) and 1933(4) of the California Civil Code, with respect to any rights or obligations concerning damage or destruction in the absence of an express agreement between the parties, and any other statute or regulation, now or hereafter in effect, shall have no application to this Lease or any damage or destruction to all or any part of the Premises, the Building or the Project.

**12. NONWAIVER** No provision of this Lease shall be deemed waived by either party hereto unless expressly waived in a writing signed thereby. The waiver by either party hereto of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of same or any other term, covenant or condition herein contained. The subsequent acceptance of Rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent. No acceptance of a lesser amount than the Rent herein stipulated shall be deemed a waiver of Landlord's right to receive the full amount due, nor shall any endorsement or statement on any check or payment or any letter accompanying such check or payment be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the full amount due. No receipt of monies by Landlord from Tenant after the termination of this Lease shall in any way alter the length of the Lease Term or of Tenant's right of possession hereunder, or after the giving of any notice shall reinstate, continue or extend the Lease 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 said Rent shall not waive or affect said notice, suit or judgment.

**13. CONDEMNATION** If the whole or any part of the Premises shall be taken by power of eminent domain or condemned by any competent authority for any public or quasi-public use or purpose, or if any adjacent property or street shall be so taken or condemned, or reconfigured or vacated by such authority in such manner as to require the use or reconstruction of any part of the Premises, or if Landlord shall grant a deed or other instrument in lieu of such taking by eminent domain or condemnation, Landlord shall have the option to terminate this Lease effective as of the date possession is required to be surrendered to the authority. Tenant shall not because of such taking assert any claim against Landlord or the authority for any compensation because of such taking and Landlord shall be entitled to the entire award or payment in connection therewith, except that Tenant shall have the right to file any separate claim available to Tenant for any taking of Tenant's personal property and fixtures belonging to Tenant and removable by Tenant upon expiration of the Lease Term pursuant to the terms of this Lease, for moving expenses, for the unamortized value of any improvements paid for by Tenant and for the Lease "bonus value", so long as such claims are payable separately to Tenant. All Rent shall be apportioned as of the date of such termination. If any part of the Premises shall be taken, and this Lease shall not be so terminated, the Rent shall be proportionately abated. Tenant hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of The California Code of Civil Procedure. Notwithstanding anything to the contrary contained in this Article 13, in the event of a temporary taking of all or any portion of the Premises for a period of one hundred and eighty (180) days or less, then this Lease shall not terminate but the Base Rent and the Additional Rent shall be abated for the period of such taking in proportion to the ratio that the amount of rentable square feet of the Premises taken bears to the total rentable square feet of the Premises. Landlord shall be entitled to receive the entire award made in connection with any such temporary taking.

**14. ASSIGNMENT AND SUBLETTING**

14.1 **Transfers.** Tenant shall not, without the prior written consent of Landlord, assign, mortgage, pledge, hypothecate, encumber, or permit any lien to attach to, or otherwise directly or indirectly transfer, this Lease or any interest hereunder, permit any assignment, or other transfer of this Lease or any interest hereunder by operation of law, sublet the Premises or any part thereof, or enter into any license or concession agreements or otherwise permit the occupancy or use of the Premises or any part thereof by any persons other than Tenant and its employees and contractors (all of the foregoing are hereinafter sometimes referred to collectively as "**Transfers**" and any person to whom any Transfer is made or sought to be made is hereinafter sometimes referred to as a "**Transferee**"). If Tenant desires Landlord's consent to any Transfer, Tenant shall notify Landlord in writing, which notice (the "**Transfer Notice**") shall include (i) the proposed effective date of the Transfer, which shall not be less than thirty (30) days nor more than one hundred eighty (180) days after the date of delivery of the Transfer Notice, (ii) a description of the portion of the Premises to be transferred (the "**Subject Space**"), (iii) all of the terms of the

proposed Transfer and the consideration therefor, including calculation of the "**Transfer Premium**", as that term is defined in Section 14.3 below, in connection with such Transfer, the name and address of the proposed Transferee, and a copy of all existing executed and/or proposed documentation pertaining to the proposed Transfer, and (iv) current financial statements of the proposed Transferee certified by an officer, partner or owner thereof, and any other information reasonably required by Landlord which will enable Landlord to determine the financial responsibility, character, and reputation of the proposed Transferee, nature of such Transferee's business and proposed use of the Subject Space. Any Transfer made without Landlord's prior written consent shall, at Landlord's option, be null, void and of no effect, and shall, at Landlord's option, constitute a default by Tenant under this Lease. Whether or not Landlord consents to any proposed Transfer, Tenant shall pay Landlord's reasonable review and processing fees, as well as any reasonable professional fees (including, without limitation, attorneys', accountants', architects', engineers' and consultants' fees) incurred by Landlord (not to exceed \$3,500 in the aggregate for any particular Transfer), within thirty (30) days after written request by Landlord. Notwithstanding anything contained in this Lease to the contrary, Tenant shall not: (a) make a Transfer to an entity in which, under the Internal Revenue Code of 1986, as amended (the "**Code**"), any entity that directly or indirectly owns Landlord and is qualified as a real estate investment trust (a "**REIT Owner**") owns, directly, indirectly or by applying constructive ownership rules set forth in Section 856(d)(5) of the Code, a ten percent (10%) or greater interest; or (ii) make any Transfer or other action under Section 14.8, below, in a manner that would cause any portion of the amounts received by Landlord pursuant hereto to fail to qualify as "rents from real property" within the meaning of Section 856(d) of the Code.

14.2 **Landlord's Consent.** Landlord shall not unreasonably withhold or delay its consent to any proposed Transfer of the Subject Space to the Transferee on the terms specified in the Transfer Notice and shall respond to Tenant's consent request within thirty (30) days. Without limitation as to other reasonable grounds for withholding consent, the parties hereby agree that it shall be reasonable under this Lease and under any applicable law for Landlord to withhold consent to any proposed Transfer where one or more of the following apply:

14.2.1 The Transferee is of a character or reputation or engaged in a business which is not consistent with the quality of the Building or the Project;

14.2.2 The Transferee is either a governmental agency or instrumentality thereof;

14.2.3 The Transferee is not a party of reasonable financial worth and/or financial stability in light of the responsibilities to be undertaken in connection with the Transfer on the date consent is requested; or

14.2.4 The proposed Transfer would cause a violation of another lease for space in the Project, or would give an occupant of the Project a right to cancel its lease.

If Landlord consents to any Transfer pursuant to the terms of this Section 14.2 (and does not exercise any recapture rights Landlord may have under Section 14.4 of this Lease), Tenant may within six (6) months after Landlord's consent, but not later than the expiration of said six-month period, enter into such Transfer of the Premises or portion thereof, upon substantially the same terms and conditions as are set forth in the Transfer Notice furnished by Tenant to Landlord pursuant to Section 14.1 of this Lease, provided that if there are any changes in the terms and conditions from those specified in the Transfer Notice such that Landlord would initially have been entitled to refuse its consent to such Transfer under this Section 14.2, Tenant shall again submit the Transfer to Landlord for its approval and other action under this Article 14 (including Landlord's right of recapture, if any, under Section 14.4 of this Lease). Notwithstanding anything to the contrary in this Lease, if Tenant or any proposed Transferee claims that Landlord has unreasonably withheld or delayed its consent under Section 14.2 or otherwise has breached or acted unreasonably under this Article 14, their sole remedies shall be a suit for contract damages (other than damages for injury to, or interference with, Tenant's business including, without limitation, loss of profits, however occurring) or declaratory judgment and an injunction for the relief sought, and Tenant hereby waives all other remedies, including, without limitation, any right at law or equity to terminate this Lease, on its own behalf and, to the extent permitted under all applicable laws, on behalf of the proposed Transferee.

14.3 **Transfer Premium.** If Landlord consents to a Transfer, as a condition thereto which the parties hereby agree is reasonable, Tenant shall pay to Landlord fifty percent (50%) of any "**Transfer Premium**," as that term is defined in this Section 14.3, received by Tenant from such Transferee. "**Transfer Premium**" shall mean all rent, additional rent or other consideration payable by such Transferee in connection with the Transfer in excess of



the Rent and Additional Rent payable by Tenant under this Lease during the term of the Transfer on a per rentable square foot basis if less than all of the Premises is transferred, and after deduction of (i) any costs of improvements made to the Subject Space in connection with such Transfer, (ii) brokerage commissions paid in connection with such Transfer, and (iii) reasonable legal fees incurred in connection with such Transfer. "**Transfer Premium**" shall also include, but not be limited to, key money, bonus money or other cash consideration paid by Transferee to Tenant in connection with such Transfer, and any payment in excess of fair market value for services rendered by Tenant to Transferee or for assets, fixtures, inventory, equipment, or furniture transferred by Tenant to Transferee in connection with such Transfer. The determination of the amount of Landlord's applicable share of the Transfer Premium shall be made on a monthly basis as rent or other consideration is received by Tenant under the Transfer.

14.4 **Landlord's Option as to Subject Space.** Notwithstanding anything to the contrary contained in this Article 14, in the event Tenant contemplates a Transfer other than to a Permitted Transferee which, together with all prior Transfers then remaining in effect, would cause fifty percent (50%) or more of the Premises to be Transferred for more than fifty percent (50%) of the then remaining Lease Term (taking into account any extension of the Lease Term which has irrevocably exercised by Tenant), Tenant shall give Landlord notice (the "**Intention to Transfer Notice**") of such contemplated Transfer (whether or not the contemplated Transferee or the terms of such contemplated Transfer have been determined). The Intention to Transfer Notice shall specify the portion of and amount of rentable square feet of the Premises which Tenant intends to Transfer in the subject Transfer (the "**Contemplated Transfer Space**"), the contemplated date of commencement of the Contemplated Transfer (the "**Contemplated Effective Date**"), and the contemplated length of the term of such contemplated Transfer. Thereafter, Landlord shall have the option, by giving written notice to Tenant within thirty (30) days after receipt of any Intention to Transfer Notice, to recapture the Contemplated Transfer Space. Such recapture shall cancel and terminate this Lease with respect to such Contemplated Transfer Space as of the Contemplated Effective Date. In the event of a recapture by Landlord, if this Lease shall be canceled with respect to less than the entire Premises, the Rent reserved herein shall be prorated on the basis of the number of rentable square feet retained by Tenant in proportion to the number of rentable square feet contained in the Premises, and this Lease as so amended shall continue thereafter in full force and effect, and upon request of either party, the parties shall execute written confirmation of the same. If Landlord declines, or fails to elect in a timely manner, to recapture such Contemplated Transfer Space under this Section 14.4, then, subject to the other terms of this Article 14, for a period of nine (9) months (the "**Nine Month Period**") commencing on the last day of such thirty (30) day period, Landlord shall not have any right to recapture the Contemplated Transfer Space with respect to any Transfer made during the Nine Month Period, provided that any such Transfer is substantially on the terms set forth in the Intention to Transfer Notice, and provided further that any such Transfer shall be subject to the remaining terms of this Article 14. If such a Transfer is not so consummated within the Nine Month Period (or if a Transfer is so consummated, then upon the expiration of the term of any Transfer of such Contemplated Transfer Space consummated within such Nine Month Period), Tenant shall again be required to submit a new Intention to Transfer Notice to Landlord with respect any contemplated Transfer, as provided above in this Section 14.4. Tenant shall not be required to provide a separate Intention to Transfer Notice and Tenant's request for Landlord's consent to a Transfer shall satisfy Tenant's obligations in this Section 14.4.

14.5 **Effect of Transfer.** If Landlord consents to a Transfer, (i) the terms and conditions of this Lease shall in no way be deemed to have been waived or modified, (ii) such consent shall not be deemed consent to any further Transfer by either Tenant or a Transferee, (iii) Tenant shall deliver to Landlord, promptly after execution, an original executed copy of all documentation pertaining to the Transfer in form reasonably acceptable to Landlord, (iv) Tenant shall furnish upon Landlord's request a complete statement, certified by an independent certified public accountant, or Tenant's chief financial officer, setting forth in detail the computation of any Transfer Premium Tenant has derived and shall derive from such Transfer, and (v) no Transfer relating to this Lease or agreement entered into with respect thereto, whether with or without Landlord's consent, shall relieve Tenant or any guarantor of the Lease from any liability under this Lease, including, without limitation, in connection with the Subject Space. Landlord or its authorized representatives shall have the right at all reasonable times to audit the books, records and papers of Tenant relating to any Transfer, and shall have the right to make copies thereof. If the Transfer Premium respecting any Transfer shall be found understated, Tenant shall, within thirty (30) days after demand, pay the deficiency, and if understated by more than two percent (2%), Tenant shall pay Landlord's costs of such audit.

14.6 **Additional Transfers.** For purposes of this Lease, the term "**Transfer**" shall also include if Tenant is a partnership, the withdrawal or change, voluntary, involuntary or by operation of law, of fifty percent (50%) or more of the partners, or transfer of fifty percent (50%) or more of partnership interests, within a twelve (12)-month period, or the dissolution of the partnership without immediate reconstitution thereof.

14.7 **Occurrence of Default.** Any Transfer hereunder shall be subordinate and subject to the provisions of this Lease, and if this Lease shall be terminated during the term of any Transfer, Landlord shall have the right to: (i) treat such Transfer as cancelled and repossess the Subject Space by any lawful means, or (ii) require that such Transferee attorn to and recognize Landlord as its landlord under any such Transfer. If Tenant shall be in default under this Lease, Landlord is hereby irrevocably authorized, as Tenant's agent and attorney-in-fact, to direct any Transferee to make all payments under or in connection with the Transfer directly to Landlord (which Landlord shall apply towards Tenant's obligations under this Lease) until such default is cured. Such Transferee shall rely on any representation by Landlord that Tenant is in default hereunder, without any need for confirmation thereof by Tenant. Upon any assignment, the assignee shall assume in writing all obligations and covenants of Tenant thereafter to be performed or observed under this Lease. No collection or acceptance of rent by Landlord from any Transferee shall be deemed a waiver of any provision of this Article 14 or the approval of any Transferee or a release of Tenant from any obligation under this Lease, whether theretofore or thereafter accruing. In no event shall Landlord's enforcement of any provision of this Lease against any Transferee be deemed a waiver of Landlord's right to enforce any term of this Lease against Tenant or any other person. If Tenant's obligations hereunder have been guaranteed, Landlord's consent to any Transfer shall not be effective unless the guarantor also consents to such Transfer.

14.8 **Non-Transfers.** Notwithstanding anything to the contrary contained in this Article 14, (i) an assignment or subletting of all or a portion of the Premises to an affiliate of Tenant (an entity which is controlled by, controls, or is under common control with, Tenant), (ii) an assignment of the Premises to an entity which acquires all or substantially all of the assets or interests (partnership, stock or other) of Tenant, (iii) an assignment of the Premises to an entity which is the resulting entity of a merger or consolidation of Tenant with another entity, or (iv) a change of Control or the sale of corporate shares of capital stock in Tenant in connection with a private financing or public offering of Tenant's stock on a nationally-recognized stock exchange (collectively, a "**Permitted Transferee**"), shall not be deemed a Transfer under this Article 14, provided that (A) Tenant notifies Landlord of any such assignment or sublease and promptly supplies Landlord with any documents or information requested by Landlord regarding such assignment or sublease or such affiliate, (B) such assignment or sublease is not a subterfuge by Tenant to avoid its obligations under this Lease, (C) such Permitted Transferee shall be of a character and reputation consistent with the quality of the Building, and (D) such Permitted Transferee described in subpart (ii) or (iii) above shall have a tangible net worth (not including goodwill as an asset) computed in accordance with generally accepted accounting principles ("**Net Worth**") at least equal to the Net Worth of Tenant as of the Effective Date. An assignee of Tenant's entire interest that is also a Permitted Transferee may also be known as a "**Permitted Assignee**". "**Control**," as used in this Section 14.8, shall mean the ownership, directly or indirectly, of at least fifty-one percent (51%) of the voting securities of, or possession of the right to vote, in the ordinary direction of its affairs, of at least fifty-one percent (51%) of the voting interest in, any person or entity. No such permitted assignment or subletting shall serve to release Tenant from any of its obligations under this Lease.

## 15. SURRENDER OF PREMISES; OWNERSHIP AND REMOVAL OF TRADE FIXTURES

15.1 **Surrender of Premises.** No act or thing done by Landlord or any agent or employee of Landlord during the Lease Term shall be deemed to constitute an acceptance by Landlord of a surrender of the Premises unless such intent is specifically acknowledged in writing by Landlord. The delivery of keys to the Premises to Landlord or any agent or employee of Landlord shall not constitute a surrender of the Premises or effect a termination of this Lease, whether or not the keys are thereafter retained by Landlord, and notwithstanding such delivery Tenant shall be entitled to the return of such keys at any reasonable time upon request until this Lease shall have been properly terminated. The voluntary or other surrender of this Lease by Tenant, whether accepted by Landlord or not, or a mutual termination hereof, shall not work a merger, and at the option of Landlord shall operate as an assignment to Landlord of all subleases or subtenancies affecting the Premises or terminate any or all such sublessees or subtenancies.

15.2 **Removal of Tenant Property by Tenant.** Upon the expiration of the Lease Term, or upon any earlier termination of this Lease, Tenant shall, subject to the provisions of this Article 15, quit and surrender possession of the Premises to Landlord in as good order and condition as when Tenant took possession and as thereafter improved by Landlord and/or Tenant, reasonable wear and tear, damage caused by casualty, repairs required as a result of condemnation, and repairs which are specifically made the responsibility of Landlord hereunder excepted. Upon such expiration or termination, Tenant shall, without expense to Landlord, remove or cause to be removed from the Premises all debris and rubbish, and such items of furniture, equipment, free-standing cabinet work, movable partitions (but not demountable walls) and other articles of personal property owned by Tenant or installed or placed by Tenant at its expense in the Premises, and such similar articles of any other persons claiming under Tenant, as Landlord may, in its sole discretion, require to be removed, and Tenant shall repair at its own expense all damage to the Premises and Building resulting from such removal.

15.3 **Environmental Assessment.** In connection with its surrender of the Premises, Tenant shall submit to Landlord, at least fifteen (15) days prior to the expiration date of this Lease (or in the event of an earlier termination of this Lease, as soon as reasonably possible following such termination), an environmental Assessment of the Premises by a competent and experienced environmental engineer or engineering firm reasonably satisfactory to Landlord (pursuant to a contract approved by Landlord and providing that Landlord can rely on the Environmental Assessment). If such Environmental Assessment reveals that remediation or Clean-up is required under any Environmental Laws that Tenant is responsible for under this Lease, Tenant shall submit a remediation plan prepared by a recognized environmental consultant and shall be responsible for all costs of remediation and Clean-up, as more particularly provided in Section 5.3, above.

15.4 **Condition of the Building and Premises Upon Surrender.** In addition to the above requirements of this Article 15, upon the expiration of the Lease Term, or upon any earlier termination of this Lease, Tenant shall, surrender the Premises and Building with Tenant having complied with all of Tenant's obligations under this Lease, including those relating to improvement, repair, maintenance, compliance with law, testing and other related obligations of Tenant set forth in Article 7 of this Lease. In the event that the Building and Premises shall be surrendered in a condition which does not comply with the terms of this Section 15.4, because Tenant failed to comply with its obligations set forth in Lease, then following thirty (30) days' notice to Tenant, during which thirty (30) day period Tenant shall have the right to cure such noncompliance, Landlord shall be entitled to expend all reasonable costs in order to cause the same to comply with the required condition upon surrender and Tenant shall immediately reimburse Landlord for all such costs upon notice and, commencing on the later of the termination of this Lease and three (3) business days after Landlord's delivery of notice of such failure and that it elects to treat such failure as a holdover, Tenant shall be deemed during the period that Tenant or Landlord, as the case may be, perform obligations relating to the Surrender Improvements to be in holdover under Article 16 of this Lease.

16. **HOLDING OVER** If Tenant holds over after the expiration of the Lease Term or earlier termination thereof, with the express or implied consent of Landlord, such tenancy shall be from month-to-month only, and shall not constitute a renewal hereof or an extension for any further term. If Tenant holds over after the expiration of the Lease Term or earlier termination thereof, without the express or implied consent of Landlord, such tenancy shall be deemed to be a tenancy by sufferance only, and shall not constitute a renewal hereof or an extension for any further term. In either case, Base Rent shall be payable at a monthly rate equal to one hundred fifty percent (150%) of the Base Rent applicable during the last rental period of the Lease Term under this Lease. Such month-to-month tenancy or tenancy by sufferance, as the case may be, shall be subject to every other applicable term, covenant and agreement contained herein. Nothing contained in this Article 16 shall be construed as consent by Landlord to any holding over by Tenant, and Landlord expressly reserves the right to require Tenant to surrender possession of the Premises to Landlord as provided in this Lease upon the expiration or other termination of this Lease. The provisions of this Article 16 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law. If Tenant fails to surrender the Premises upon the termination or expiration of this Lease, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord harmless from all loss, costs (including reasonable attorneys' fees) and liability resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding tenant founded upon such failure to surrender and any lost profits to Landlord resulting therefrom.

## 17. ESTOPPEL CERTIFICATES; TENANT FINANCIALS

17.1 **Estoppel Certificates.** Within ten (10) business days following a request in writing by Landlord, Tenant shall execute, acknowledge and deliver to Landlord an estoppel certificate, which, as submitted by Landlord, shall be substantially in the form of Exhibit D, attached hereto (or such other form as may be reasonably required by any prospective mortgagee or purchaser of the Project, or any portion thereof), indicating therein any exceptions thereto that may exist at that time, and shall also contain any other information reasonably requested by Landlord or Landlord's mortgagee or prospective mortgagee. Any such certificate may be relied upon by any prospective mortgagee or purchaser of all or any portion of the Project. Tenant shall execute and deliver whatever other instruments may be reasonably required for such purposes. Failure of Tenant to timely execute, acknowledge and deliver such estoppel certificate or other instruments shall constitute an acceptance of the Premises and an acknowledgment by Tenant that statements included in the estoppel certificate are true and correct, without exception.

17.2 **Tenant Financials.** At any time during the Lease Term, but not more than once per year (unless in connection with a sale or financing of the Building by Landlord), Landlord may require Tenant to provide Landlord with (i) a balance sheet for the most recent quarter-end date, (ii) a statement of cash flows for the most recent quarter-end date, and (iii) an income statement for the trailing twelve (12) month period ending on the most recent month end date. Such statements shall be prepared in accordance with generally accepted accounting principles and, if such is the normal practice of Tenant, shall be audited by an independent certified public accountant. Landlord shall hold such statements confidential. Notwithstanding the foregoing, in the event that (i) stock in the entity which constitutes Tenant under this Lease (as opposed to an entity that "controls" Tenant or is otherwise an "affiliate" of Tenant) is publicly traded on a national stock exchange, and (ii) Tenant has its own, separate and distinct 10K and 10Q filing requirements (as opposed joint or cumulative filings with an entity that controls Tenant or with entities which are otherwise affiliates of Tenant), then Tenant's obligation to provide Landlord with a copy of its most recent current financial statement shall be deemed satisfied.

**18. SUBORDINATION** Landlord hereby represents and warrants to Tenant that the Project is not currently subject to any ground lease, or to the lien of any mortgage or deed of trust. This Lease shall be subject and subordinate to all future ground or underlying leases of the Building or Project and to the lien of any mortgage, trust deed or other encumbrances now or hereafter in force against the Building or Project or any part thereof, if any, and to all renewals, extensions, modifications, consolidations and replacements thereof, and to all advances made or hereafter to be made upon the security of such mortgages or trust deeds, unless the holders of such mortgages, trust deeds or other encumbrances, or the lessors under such ground lease or underlying leases, require in writing that this Lease be superior thereto. The subordination of this Lease to any such future ground or underlying leases of the Building or Project or to the lien of any mortgage, trust deed or other encumbrances, shall be subject to Tenant's receipt of a commercially reasonable subordination, non-disturbance, and attornment agreement in favor of Tenant. Tenant covenants and agrees in the event any proceedings are brought for the foreclosure of any such mortgage or deed in lieu thereof (or if any ground lease is terminated), to attorn, without any deductions or set-offs whatsoever, to the lienholder or purchaser or any successors thereto upon any such foreclosure sale or deed in lieu thereof (or to the ground lessor), if so requested to do so by such purchaser or lienholder or ground lessor, and to recognize such purchaser or lienholder or ground lessor as the lessor under this Lease, provided such lienholder or purchaser or ground lessor shall agree to accept this Lease and not disturb Tenant's occupancy, so long as Tenant timely pays the rent and observes and performs the terms, covenants and conditions of this Lease to be observed and performed by Tenant. Landlord's interest herein may be assigned as security at any time to any lienholder. Tenant shall, within ten (10) days of request by Landlord, execute such further instruments or assurances as Landlord may reasonably deem necessary to evidence or confirm the subordination or superiority of this Lease to any such mortgages, trust deeds, ground leases or underlying leases. Tenant waives the provisions of any current or future statute, rule or law which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect this Lease and the obligations of the Tenant hereunder in the event of any foreclosure proceeding or sale.

**19. DEFAULTS; REMEDIES**

19.1 **Events of Default.** The occurrence of any of the following shall constitute a default of this Lease by Tenant:

19.1.1 Any failure by Tenant to pay any Rent or any other charge required to be paid under this Lease, or any part thereof, when due unless such failure is cured within five (5) business days after notice; or

19.1.2 Except where a specific time period is otherwise set forth for Tenant's performance in this Lease, in which event the failure to perform by Tenant within such time period shall be a default by Tenant under this Section 19.1.2, any failure by Tenant to observe or perform any other provision, covenant or condition of this Lease to be observed or performed by Tenant where such failure continues for thirty (30) days after written notice thereof from Landlord to Tenant; provided that if the nature of such default is such that the same cannot reasonably be cured within a thirty (30) day period, Tenant shall not be deemed to be in default if it diligently commences such cure within such period and thereafter diligently proceeds to rectify and cure such default; or

19.1.3 Abandonment or vacation of all or a substantial portion of the Premises by Tenant while Tenant is in default under the Lease; or

19.1.4 The failure by Tenant to observe or perform according to the provisions of Articles 5, 14, 17 or 18 of this Lease where such failure continues for more than five (5) business days after notice from Landlord; or

19.1.5 To the extent permitted by Applicable Laws, (i) Tenant being placed into receivership or conservatorship, or becoming subject to similar proceedings under Federal or State law unless dismissed within thirty (30) days, or (ii) a general assignment by Tenant or any guarantor of this Lease for the benefit of creditors, or (iii) the filing by or against Tenant or any guarantor of any proceeding under an insolvency or bankruptcy law, unless in the case of such a proceeding filed against Tenant or any guarantor the same is dismissed within sixty (60) days, or (iv) the appointment of a trustee or receiver to take possession of all or substantially all of the assets of Tenant or any guarantor, unless possession is restored to Tenant or such guarantor within thirty (30) days, or (v) any execution or other judicially authorized seizure of all or substantially all of Tenant's assets located upon the Premises or of Tenant's interest in this Lease, unless such seizure is discharged within thirty (30) days.

19.2 **Remedies Upon Default.** Upon the occurrence of any event of default by Tenant, Landlord shall have, in addition to any other remedies available to Landlord at law or in equity (all of which remedies shall be distinct, separate and cumulative), the option to pursue any one or more of the following remedies, each and all of which shall be cumulative and nonexclusive, without any notice or demand whatsoever.

19.2.1 Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, without being liable for prosecution or any claim or damages therefor; and Landlord may recover from Tenant the following:

- (i) The worth at the time of award of the unpaid rent which has been earned at the time of such termination; plus
- (ii) 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; plus
- (iii) The worth at the time of award of the amount by which the unpaid rent for the balance of the Lease Term after the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus
- (iv) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, specifically including but not limited to, in each case to the extent allocable to the remaining Lease Term, brokerage commissions and advertising expenses incurred to obtain a new tenant, expenses of remodeling the Premises or any portion thereof for a new tenant, whether for the same or a different use, and any special concessions made to obtain a new tenant; and
- (v) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

The term "**rent**" as used in this Section 19.2 shall be deemed to be and to mean all sums of every nature required to be paid by Tenant pursuant to the terms of this Lease, whether to Landlord or to others. As used in Sections 19.2.1(i) and (ii), above, the "worth at the time of award" shall be computed by allowing interest at the rate set forth in Article 25 of this Lease, but in no case greater than the maximum amount of such interest permitted by law. As used in Section 19.2.1(iii), above, the "**worth at the time of award**" shall be 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%).

19.2.2 Landlord shall have the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has the right to sublet or assign, subject only to reasonable limitations). Accordingly, if Landlord does not elect to terminate this Lease on account of any default by Tenant, Landlord may, from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease, including the right to recover all rent as it becomes due.

19.2.3 Landlord shall at all times have the rights and remedies (which shall be cumulative with each other and cumulative and in addition to those rights and remedies available under Sections 19.2.1 and 19.2.2, above, or any law or other provision of this Lease), without prior demand or notice except as required by applicable law, to seek any declaratory, injunctive or other equitable relief, and specifically enforce this Lease, or restrain or enjoin a violation or breach of any provision hereof.

19.3 **Subleases of Tenant.** If Landlord elects to terminate this Lease on account of any default by Tenant, as set forth in this Article 19, Landlord shall have the right to terminate any and all subleases, licenses, concessions or other consensual arrangements for possession entered into by Tenant and affecting the Premises or may, in Landlord's sole discretion, succeed to Tenant's interest in such subleases, licenses, concessions or arrangements. In the event of Landlord's election to succeed to Tenant's interest in any such subleases, licenses, concessions or arrangements, Tenant shall, as of the date of notice by Landlord of such election, have no further right to or interest in the rent or other consideration receivable thereunder.

19.4 **Efforts to Relet.** No re-entry, repairs, maintenance, changes, alterations and additions, appointment of a receiver to protect Landlord's interests hereunder, or any other action or omission by Landlord shall be construed as an election by Landlord to terminate this Lease or Tenant's right to possession, or to accept a surrender of the Premises, nor shall same operate to release Tenant in whole or in part from any of Tenant's obligations hereunder, unless express written notice of such intention is sent by Landlord to Tenant.

19.5 **Landlord Default.** Landlord shall be in default under this Lease only if Landlord fails to perform any of its obligations hereunder and such failure continues for thirty (30) days after Tenant delivers to Landlord written notice specifying such failure; however, if such failure cannot reasonably be cured within such 30-day period, but Landlord commences to cure such failure within such 30-day period and thereafter diligently pursues the curing thereof to completion, then Landlord shall not be in default hereunder or liable for damages therefor. Except where the provisions of this Lease grant Tenant an express, exclusive remedy, or expressly deny Tenant a remedy, Tenant may exercise any of its rights at law or in equity provide that in any event, Landlord's liability or obligations with respect to any such remedy shall be limited as provided in Section 29.13.

20. **COVENANT OF QUIET ENJOYMENT** Landlord covenants that Tenant, on paying the Rent, charges for services and other payments herein reserved and on keeping, observing and performing all the other terms, covenants, conditions, provisions and agreements herein contained on the part of Tenant to be kept, observed and performed, shall, during the Lease Term, peaceably and quietly have, hold and enjoy the Premises subject to the terms, covenants, conditions, provisions and agreements hereof without interference by any persons lawfully claiming by or through Landlord. The foregoing covenant is in lieu of any other covenant express or implied.

21. **LEASE SECURITY.**

21.1 **Delivery of Letter of Credit.** Tenant shall cause the "Bank" (as such term is defined below) to issue and deliver to Landlord, concurrently with Tenant's execution of this Lease a letter of credit (the "L-C") in the amount set forth in Section 21.7 below (the "**L-C Amount**") that complies in full with all the terms and conditions of this Article 21. The L-C shall (i) be issued by the Bank, (ii) be irrevocable, unconditional, and payable upon demand (iii) have an initial expiration date not sooner than twelve (12) months from the issuance thereof; (iv) be

maintained in effect, whether through renewal or extension, for the period commencing on the date of the Lease and continuing until the date (the “**L-C Expiration Date**”) that is no less than ninety-five (95) days after the expiration of the Lease Term, as the same may be extended, (v) contain a provision that provides that the L-C shall be automatically renewed on an annual basis without amendment of the L-C or action of Landlord or Tenant unless the Bank delivers a written notice of non-extension to Landlord at least sixty (60) days prior to the then expiry date of the L-C, without any action whatsoever on the part of Landlord, (vi) be fully assignable by Landlord, its successors and assigns, (vii) permit partial draws and multiple presentations and drawings, (viii) otherwise be in the form and content identical to the form attached to this Lease as **Exhibit E**, and (ix) be otherwise subject to the International Standby Practices-ISP 98, International Chamber of Commerce Publication #590.

21.2 **Bank.** The term “**Bank**” as used herein shall mean a money-center, solvent and nationally recognized bank listed on the most current list of Global Systemically Important Banks (G-SIBs) as of the Effective Date, and otherwise acceptable to Landlord in its sole and absolute discretion, and that (i) accepts deposits, maintains accounts, has a local San Mateo County office which will accept draws on a letter of credit or allows draws by facsimile, and whose deposits are insured by the FDIC; (ii) is not subject to the control or jurisdiction of any receiver, trustee, custodian, conservator, liquidator or similar official under any federal, state, foreign, or common law; (iii) is not a “bridge bank” or other successor (whether by asset sale, merger, or otherwise) to any bank that was the original issuer of the L-C, or any entity that is under the control of the Federal Deposit Insurance Corporation as receiver or conservator, unless expressly approved in writing by Landlord in its sole and absolute discretion; and (iv) whose long-term, unsecured and unsubordinated debt obligations are rated of no less than “A” by Fitch Ratings Ltd. (“**Fitch**”) and a short term issuer rating of no less than “F1” by Fitch (or in the event such applicable Fitch ratings are no longer available, comparable ratings from Standard and Poor’s Professional Rating Service or Moody’s Professional Rating Service), unless otherwise expressly approved in writing by Landlord in its sole and absolute discretion (collectively, the “**L-C Issuer Requirements**”). If at any time: (a) the Bank does not meet any of the L-C Issuer Requirements; (b) the Bank is placed into receivership or conservatorship by the Federal Deposit Insurance Corporation or any state or other governmental agency; or (c) Landlord determines in its sole and absolute discretion that the financial condition of the Bank changes in any materially adverse way, then the L-C shall be deemed to no longer comply with the terms and conditions of the Lease and Tenant shall, within twenty (20) business days following Landlord’s notice to Tenant, at in Landlord’s reasonable discretion, cause another bank meeting each of the L-C Issuer Requirements set forth herein to issue and deliver to Landlord a replacement L-C that fully complies in all respects with the requirements of this Article 21 provided, however, Tenant may instead elect to deposit with Landlord cash in an amount equal to the L-C Amount which cash shall be deemed L-C Proceeds (as such term is defined below) which Landlord shall be entitled to use and apply in accordance with this Article 21. If Tenant fails to replace such L-C or deposit cash, as is applicable, pursuant to the terms and conditions of this Section 21.2, then, notwithstanding anything in this Lease to the contrary, Landlord shall have the right to declare Tenant in default of this Lease for which there shall be no notice or grace or cure periods being applicable thereto (other than the aforesaid twenty (20) business day period). Tenant shall be responsible for the payment of any and all Tenant’s and Bank’s costs incurred with the review of any replacement L-C, which replacement is required pursuant to this Article 21 or is otherwise requested by Tenant. On issuance and effectiveness of any replacement L-C required or allowed by this Article 21, “**Bank**” shall mean the issuer of such replacement L-C.

21.3 **L-C Draw Events.** Each of the following events shall constitute an “**L-C Draw Event**”: (i) Tenant shall have failed to pay when due any amount due to Landlord under the terms and conditions of the Lease which failure continues after applicable notice and cure periods (or, if Landlord is prevented by law from providing notice, within the period for payment set forth in the Lease); (ii) Tenant shall have failed to perform when due any of its obligations in accordance with the terms and conditions of the Lease, which failure continues after applicable notice and cure periods; (iii) an Event of Default shall exist under the Lease; (iv) the Lease terminated prior to the expiration of the Term as a result of Tenant’s breach or default of any term or provision of the Lease; (v) Tenant has filed a voluntary petition under the United States Bankruptcy Code or has commenced, filed, or initiated any other bankruptcy, receivership, reorganization, insolvency, restructuring, or similar proceeding under any federal, state, or foreign laws or statutes; (vi) an involuntary petition has been filed against Tenant under the United States Bankruptcy Code or Tenant has become the subject of, has commenced against it, or is placed in any other bankruptcy, receivership, reorganization, insolvency, restructuring, or similar proceeding under any federal, state, or foreign laws or statutes that is not dismissed within thirty (30) days; (viii) the Lease has been rejected, repudiated, disaffirmed, or is deemed rejected, repudiated, or disaffirmed in any case commenced under the United States

Bankruptcy Code or under any case or proceeding under any similar federal, state, or foreign, laws or statutes; (ix) the Bank has notified Landlord that the L-C will not be renewed or extended through the L-C Expiration Date, and Tenant has not provided a replacement L-C that satisfies the requirements of this Lease at least thirty (30) days prior to such expiration; (x) Tenant has executed an assignment for the benefit of creditors, commenced an involuntary dissolution, become the subject of any involuntary dissolution proceeding, been suspended, or had its entity status has been cancelled otherwise terminated; or (xi) the Bank no longer satisfies any of the L-C Issuer Requirements.

21.4 **L-C Draw(s) and Use and Application of L-C Proceeds.** Upon and at any time after the occurrence of any L-C Draw Event, Landlord, or its then managing agent, shall have the right, but not the obligation and without notice to Tenant, to draw upon the L-C, in whole or in part, in single or multiple draws. Following any draw or draws on the L-C, Landlord, in its sole and absolute discretion and without notice to Tenant, shall have the right at any time to apply any proceeds of L-C received by Landlord on account of any draw or draws (or in the event Tenant is required to deposit cash with Landlord as may be required by Section 21.2 of the Lease above) (collectively, the “**L-C Proceeds**”) (i) to any and all amounts due and owing by Tenant under the Lease, (ii) to any and all damages, costs, expenses, claims, liabilities, or other losses of any kind or nature that Landlord suffers, sustains, or incurs, or which Landlord reasonably estimates that it will suffer, sustain, or incur as a result of or related to any breach or default of the Lease by Tenant or the occurrence of any other L-C Draw Event, (iii) to any other amount necessary to compensate Landlord for any and all detriment proximately caused by Tenant’s failure to perform its obligations under the Lease or which in the ordinary course of things would likely result therefrom; and/or (iv) to pay, compensate, or reimburse Landlord for any and all damages, costs, claims, expenses, liabilities, or other losses Landlord suffers, sustains, or incurs or Landlord reasonably estimates that it will suffer, sustain, or incur that arise out of, or are incurred in connection with, the termination of the Lease, including, without limitation, those damages and losses that Landlord may recover under the Lease and Section 1951.2 of the California Civil Code. The L-C shall be honored by the Bank regardless of whether Tenant disputes Landlord's right to draw upon the L-C. In the event of an assignment by Tenant of its interest in the Lease (and irrespective of whether Landlord's consent is required for such assignment), the acceptance of any replacement or substitute letter of credit by Landlord from the assignee shall be subject to Landlord's prior written approval, in Landlord's reasonable discretion, and the actual and reasonable attorney's fees incurred by Landlord in connection with such determination shall be payable by Tenant to Landlord within ten (10) days of billing.

21.5 **Unused/Unapplied L-C Proceeds.** In the event Landlord receives any L-C Proceeds that are not applied or used as provided in Section 21.4 above (i) any unused or unapplied L-C Proceeds received by Landlord shall constitute Landlord’s sole and exclusive property (and not Tenant's property or, in the event of a receivership, conservatorship, or bankruptcy filing by, or on behalf of, Tenant, property of such receivership, conservatorship, or Tenant's bankruptcy estate), (ii) Landlord shall not be required to keep the L-C Proceeds separate or apart from Landlord’s general funds or other assets or pay any interest on the L-C Proceeds, (iii) Landlord may, at any time and without notice to Tenant, and without obligation to do so, apply the L-C Proceeds in accordance with this Lease, including Section 21.4 above, at any time in Landlord’s sole and absolute discretion and without notice to Tenant, and (iv) Landlord agrees to pay to Tenant within thirty (30) days after the L-C Expiration Date the amount of any L-C Proceeds actually received by Landlord which are not and cannot be used or applied by Landlord as provided in this Article 21; provided, however, that if prior to the L-C Expiration Date a voluntary or involuntary petition has been filed by or against Tenant under the United States Bankruptcy Code or Tenant has become the subject of, has commenced against it, or is placed in any other bankruptcy, liquidation, receivership, reorganization, insolvency, restructuring, or similar proceedings under any federal, state, or foreign laws, or if Tenant executes an assignment for the benefit of creditors, then Landlord shall not be obligated to make any payment to Tenant in the amount of the unused or unapplied L-C Proceeds until all preference or other avoidance claims and issues relating to payments, damages, losses, and other amounts due under this Lease have been fully and finally resolved. Tenant’s obligation to furnish the L-C and any use, application or retention by Landlord of all or any part of the L-C Proceeds shall not be deemed in any way to constitute liquidated damages for any default by Tenant, or to limit the remedies to which Landlord is otherwise entitled under the terms of this Lease and/or applicable law. No trust or fiduciary relationship is created under this Lease or otherwise between Landlord and Tenant with respect to the L-C Proceeds. Tenant hereby acknowledges and agrees that Landlord is entering into this Lease in material reliance upon the ability of Landlord to draw upon the L-C upon the occurrence of any L-C Draw Event. The use, application or retention of the L-C or L-C Proceeds, or any portion thereof, by Landlord shall not prevent Landlord from exercising any other right or remedy provided by this Lease or by any applicable law, it being intended that Landlord shall not first be



required to proceed against the L-C or the L-C Proceeds, and such L-C or L-C Proceeds shall not operate as a limitation on any recovery to which Landlord may otherwise be entitled. Tenant agrees and acknowledges that (a) the L-C constitutes a separate and independent contract between Landlord and the Bank, (b) Tenant is not a third party beneficiary of such contract, (c) Tenant has no property interest whatsoever in the L-C or the proceeds thereof, and (d) in the event Tenant becomes a debtor under any chapter of the Bankruptcy Code, Tenant is placed into receivership or conservatorship, and/or there is an event of a receivership, conservatorship or a bankruptcy filing by, or on behalf of, Tenant, neither Tenant, any trustee, nor Tenant's bankruptcy estate shall have any right to restrict or limit Landlord's claim and/or rights to the L-C and/or the L-C Proceeds by application of Section 502(b)(6) of the United States Bankruptcy Code or otherwise.

21.6 **Replenishment, Renewal and Replacement of L-C.** Tenant shall cause the L-C to be kept and maintained in full force and effect at all times during the Lease Term, as the same may be extended and through and including the L-C Expiration Date, and the Bank shall meet the L-C Issuer Requirements at all times during the Lease Term, as the same may be extended and through and including the L-C Expiration Date. Unless Tenant has a mandatory obligation to replace the L-C as expressly provided herein, Tenant shall have no right to replace the L-C without Landlord's express written consent, which may be withheld by Landlord in its reasonable discretion. In the event Landlord consents to the replacement of the L-C for any reason, Landlord may require, as a condition of such consent, that the L-C remain in place with all existing rights thereunder for a period of ninety-five (95) days following the delivery of the new L-C, and Tenant shall extend the original L-C as necessary to facilitate the same. The new L-C shall comply with all terms and conditions of this Lease. If, as a result of any drawing by Landlord on the L-C, the amount of the L-C shall at any time be less than the L-C Amount, Tenant shall, within ten (10) days after written notice thereof from Landlord, provide Landlord with: (i) an amendment to the L-C restoring it to the L-C Amount, or (ii) an additional letter of credit in an amount equal to the deficiency, which additional letter of credit shall comply with all of the provisions of this Lease. If the L-C expires at any time earlier than the L-C Expiration Date, Tenant shall cause the Bank to deliver a certificate of renewal or extension of the L-C to Landlord at least thirty (30) days prior to the expiration of the L-C then held by Landlord, without any action whatsoever on the part of Landlord. In furtherance of the foregoing, if the L-C has an expiration date prior to the L-C Expiration Date, Tenant shall cause the L-C to contain a so-called "evergreen provision," whereby the L-C shall automatically be renewed, without amendment, unless at least sixty (60) days' prior written notice of non-renewal is first provided by the Bank to Landlord. At any time that Tenant has failed to timely provide Landlord with a renewed L-C, amended L-C, additional L-C or replacement L-C as and when required under this Lease, then notwithstanding anything in this Lease to the contrary, Landlord shall have the right to declare that an Event of Default has occurred for which there shall be no notice or grace or cure periods applicable thereto.

21.7 **L-C Amount.**

21.7.1 **L-C Amount.** The L-C Amount shall be equal to the amount set forth in Section 8 of the Summary.

21.7.2 **In General.** Tenant further covenants and warrants that shall have no rights to either assign or encumber the L-C, the L-C Proceeds or any part thereof and that neither Landlord nor its successors or assigns will be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance. If Tenant exercises its option to extend the Lease Term pursuant to Section 2.2 of this Lease then, not later than thirty (30) days prior to the commencement of the Option Term, Tenant shall deliver to Landlord a new L-C or certificate of renewal or extension evidencing the L-C Expiration Date as ninety-five (95) days after the expiration of the Option Term. Notwithstanding anything to the contrary herein, if Landlord draws on the L-C due to Tenant's violation of this Lease beyond applicable notice and cure periods, such draw shall be in the amount required to cure such default. In addition, if Landlord draws on the L-C due to Tenant's failure to timely renew or provide a replacement L-C, such failure shall not be considered a default under this Lease and Landlord shall return such cash proceeds upon Tenant's presentation of a replacement L-C that satisfies the requirements of this Lease, subject to reasonable satisfaction of any preference risk to Landlord.

21.8 **Transfer and Encumbrance.** The L-C shall also provide that Landlord may, at any time and without notice to Tenant and without first obtaining Tenant's consent thereto, transfer (one or more times) all or any portion of its interest in and to the L-C to another party, person or entity, regardless of whether or not such transfer is from or as a part of the assignment by Landlord of its rights and interests in and to this Lease. In the event of a

transfer of Landlord's interest in under this Lease, Landlord shall transfer the L-C, in whole or in part, to the transferee and thereupon Landlord shall, without any further agreement between the parties, be released by Tenant from all liability therefor, and it is agreed that the provisions hereof shall apply to every transfer or assignment of the whole of said L-C to a new landlord. In connection with any such transfer of the L-C by Landlord, Tenant shall, at Tenant's sole cost and expense, execute and submit to the Bank such applications, documents and instruments as may be necessary to effectuate such transfer and, Tenant shall be responsible for paying the Bank's transfer and processing fees in connection therewith; provided that, Landlord shall have the right (in its sole discretion), but not the obligation, to pay such fees on behalf of Tenant, in which case Tenant shall reimburse Landlord within ten (10) days after Tenant's receipt of an invoice from Landlord therefor.

21.9 **L-C Not a Security Deposit.** Landlord and Tenant (1) acknowledge and agree that in no event or circumstance shall the L-C, the L-C Proceeds, or any renewal thereof or substitute therefor be deemed to be or treated as a "security deposit" under any law applicable to security deposits in the commercial context, including, but not limited to, Section 1950.7 of the California Civil Code, as such Section now exists or as it may be hereafter amended or succeeded (the "**Security Deposit Laws**"), (2) acknowledge and agree that the L-C and the L-C Proceeds (including any renewal thereof or substitute therefor or any proceeds thereof) are not intended to serve as a security deposit, and the Security Deposit Laws shall have no applicability or relevancy thereto, and (3) waive any and all rights, duties and obligations that any such party may now, or in the future will, have relating to or arising from the Security Deposit Laws. Tenant hereby irrevocably waives and relinquishes the provisions of Section 1950.7 of the California Civil Code and any successor statute, and all other provisions of law, now or hereafter in effect, which (x) establish the time frame by which a landlord must refund a security deposit under a lease, and/or (y) provide that a landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of rent, to repair damage caused by a tenant or to clean the premises, it being agreed that Landlord may, in addition, claim those sums specified in this Article 21 and/or those sums reasonably necessary to (a) compensate Landlord for any loss or damage caused by Tenant's breach of this Lease, including any damages Landlord suffers following termination of this Lease, and/or (b) compensate Landlord for any and all damages arising out of, or incurred in connection with, the termination of this Lease, including, without limitation, those specifically identified in Section 1951.2 of the California Civil Code.

21.10 **Non-Interference By Tenant.** Tenant agrees not to interfere in any way with any payment to Landlord of the proceeds of the L-C, either prior to or following a "draw" by Landlord of all or any portion of the L-C, regardless of whether any dispute exists between Tenant and Landlord as to Landlord's right to draw down all or any portion of the L-C. No condition or term of this Lease shall be deemed to render the L-C conditional and thereby afford the Bank a justification for failing to honor a drawing upon such L-C in a timely manner. Tenant shall not request or instruct the Bank of any L-C to refrain from paying sight draft(s) drawn under such L-C.

21.11 **Waiver of Certain Relief.** Tenant unconditionally and irrevocably waives (and as an independent covenant hereunder, covenants not to assert) any right to claim or obtain any of the following relief in connection with the L-C or the L-C Proceeds:

21.11.1 A temporary restraining order, temporary injunction, permanent injunction, or other order that would prevent, restrain or restrict the presentment of sight drafts or demands for payment drawn under any L-C or the Bank's honoring or payment of sight draft(s); or

21.11.2 Any attachment, garnishment, or levy in any manner upon either the L-C Proceeds or the obligations of the Bank (either before or after the presentment to the Bank of sight drafts drawn under such L-C) based on any theory whatever.

21.12 **Remedy for Improper Drafts.** Tenant's sole remedy in connection with the improper draw, presentment or payment related to the L-C, or Landlord's use or application of any L-C Proceeds, shall be the right to obtain from Landlord a refund of any L-C Proceeds that were actually received by Landlord and improperly used or applied under this Article 21, together with interest at the Interest Rate and reasonable actual out-of-pocket attorneys' fees, provided that at the time of such refund, Tenant first increases the amount of such L-C to the amount (if any) then required under the applicable provisions of this Lease or provide a Landlord with a replacement letter of credit in the L-C Amount then in effect that complies in full with all the terms and conditions of this Lease. Tenant acknowledges that the presentment of sight drafts drawn under any L-C or any demand for payment under the L-C, or the Bank's payment of sight drafts or demands for payment drawn under the L-C, could not under any

circumstances cause Tenant injury that could not be remedied by an award of money damages, and that the recovery of money damages would be an adequate remedy therefor. In the event Tenant shall be entitled to a refund as aforesaid and Landlord shall fail to make such payment within ten (10) business days after demand, Tenant shall have the right to deduct the amount thereof together with interest thereon at the Interest Rate from the next installment(s) of Base Rent.

**22. COMMUNICATIONS AND COMPUTER LINE** Tenant may install, maintain, replace, remove or use any communications or computer wires and cables serving the Premises (collectively, the "**Lines**"), provided that Tenant shall obtain Landlord's prior written consent, use an experienced and qualified contractor approved in writing by Landlord, and comply with all of the other provisions of Articles 7 and 8 of this Lease. Tenant shall pay all costs in connection therewith. Landlord reserves the right, upon notice to Tenant prior to the expiration or earlier termination of this Lease, to require that Tenant, at Tenant's sole cost and expense, remove any Lines installed by Tenant located in or serving the Premises prior to the expiration or earlier termination of this Lease.

**23. SIGNS**

**23.1 Exterior Signage.** Subject to Landlord's prior written approval, which shall not be unreasonably withheld, conditioned or delayed, and provided all signs are in keeping with the quality, design and style of the Building and Project, Tenant, at its sole cost and expense, may install (i) identification signage on the existing monument sign located at the exterior of the Building, (ii) internal directional signage, and (iii) identification signage and its logo at the entrance to the Building, on the Building top (including a back-lit sign in the current location of the Prothena sign), in the shared lobby, and on each floor of its Premises (collectively, "**Tenant Signage**"); provided, however, in no event shall Tenant's Signage include an "Objectionable Name," as that term is defined in Section 23.3, of this Lease. All such signage shall be subject to Tenant's obtaining all required governmental approvals. All permitted signs shall be maintained by Tenant at its expense in a first-class and safe condition and appearance. Upon the expiration or earlier termination of this Lease, Tenant shall remove all of its signs at Tenant's sole cost and expense. The graphics, materials, color, design, lettering, lighting, size, illumination, specifications and exact location of Tenant's Signage (collectively, the "**Sign Specifications**") shall be subject to the prior written approval of Landlord, which approval shall not be unreasonably withheld, conditioned or delayed, and shall be consistent and compatible with the quality and nature of the Project. Tenant hereby acknowledges that, notwithstanding Landlord's approval of Tenant's Signage, Landlord has made no representation or warranty to Tenant with respect to the probability of obtaining all necessary governmental approvals and permits for Tenant's Signage. In the event Tenant does not receive the necessary governmental approvals and permits for Tenant's Signage, Tenant's and Landlord's rights and obligations under the remaining TCCs of this Lease shall be unaffected. Except as required by Applicable Law, Landlord shall not install any other signage on the Building. If Landlord elects to install a multi-tenant identification sign at the entrance to the Project, Tenant shall be entitled to install its name on such sign (subject to availability on a pro-rata basis based on the relative square footages leased by the tenants of the Project), at Tenant's sole cost and expense. Landlord shall remove or cause to be removed all existing tenant signage from the Building and surrounding area on or before the Lease Commencement Date.

**23.2 Objectionable Name.** Tenant's Signage shall not include a name or logo which relates to an entity which is of a character or reputation, or is associated with a political faction or orientation, which is inconsistent with the quality of the Project, or which would otherwise reasonably offend a landlord of the Comparable Buildings (an "**Objectionable Name**"). The parties hereby agree that the following name, or any reasonable derivation thereof, shall be deemed not to constitute an Objectionable Name: "Pliant Therapeutics."

**23.3 Prohibited Signage and Other Items.** Any signs, notices, logos, pictures, names or advertisements which are installed and that have not been separately approved by Landlord may be removed without notice by Landlord at the sole expense of Tenant. Any signs, window coverings, or blinds (even if the same are located behind the Landlord-approved window coverings for the Building), or other items visible from the exterior of the Premises or Building, shall be subject to the prior approval of Landlord, in its sole discretion.

**24. COMPLIANCE WITH LAW** Tenant shall not do anything or suffer anything to be done in or about the Premises or the Project which will in any way conflict with any law, statute, ordinance or other governmental rule, regulation or requirement now in force or which may hereafter be enacted or promulgated ("**Applicable Laws**"). At its sole cost and expense, Tenant shall promptly comply with all such governmental

measures. Should any standard or regulation now or hereafter be imposed on Landlord or Tenant by a state, federal or local governmental body charged with the establishment, regulation and enforcement of occupational, health or safety standards for employers, employees, landlords or tenants, then Tenant agrees, at its sole cost and expense, to comply promptly with such standards or regulations. Tenant shall be responsible, at its sole cost and expense, to make all alterations to the Building and Premises as are required to comply with the governmental rules, regulations, requirements or standards described in this Article 24. The judgment of any court of competent jurisdiction or the admission of Tenant in any judicial action, regardless of whether Landlord is a party thereto, that Tenant has violated any of said governmental measures, shall be conclusive of that fact as between Landlord and Tenant. For purposes of Section 1938 of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges, that the Project, Building and Premises have not undergone inspection by a Certified Access Specialist (CASp). As required by Section 1938(e) of the California Civil Code, Landlord hereby states as follows: "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." In furtherance of the foregoing, Landlord and Tenant hereby agree as follows: (a) any CASp inspection requested by Tenant shall be conducted, at Tenant's sole cost and expense, by a CASp approved in advance by Landlord; and (b) pursuant to Article 24 below, but subject to Section 10.2 above, Tenant, at its cost, is responsible for making any repairs within the Premises to correct violations of construction-related accessibility standards; and, if anything done by or for Tenant in its use or occupancy of the Premises shall require repairs to the Building (outside the Premises) to correct violations of construction-related accessibility standards, then Tenant shall, at Landlord's option, either perform such repairs at Tenant's sole cost and expense or reimburse Landlord upon demand, as Additional Rent, for the cost to Landlord of performing such repairs. Tenant's obligations under this Article 24 are subject to the limitation in Section 10.2 above.

**25. LATE CHARGES** If any installment of Rent or any other sum due from Tenant shall not be received by Landlord or Landlord's designee within five (5) business days after Tenant's receipt of written notice from Landlord that said amount is delinquent then Tenant shall pay to Landlord a late charge equal to five percent (5%) of the overdue amount plus any reasonable attorneys' fees incurred by Landlord by reason of Tenant's failure to pay Rent and/or other charges when due hereunder. The late charge shall be deemed Additional Rent and the right to require it shall be in addition to all of Landlord's other rights and remedies hereunder or at law and shall not be construed as liquidated damages or as limiting Landlord's remedies in any manner. In addition to the late charge described above, any Rent or other amounts owing hereunder which are not paid within ten (10) days after Tenant's receipt of written notice that said amount is delinquent shall bear interest from the date when due until paid at a rate per annum equal to the lesser of (i) the annual "Bank Prime Loan" rate cited in the Federal Reserve Statistical Release Publication G.13(415), published on the first Tuesday of each calendar month (or such other comparable index as Landlord and Tenant shall reasonably agree upon if such rate ceases to be published) plus four (4) percentage points, and (ii) the highest rate permitted by applicable law.

**26. LANDLORD'S RIGHT TO CURE DEFAULT; PAYMENTS BY TENANT**

26.1 **Landlord's Cure.** All covenants and agreements to be kept or performed by Tenant under this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any reduction of Rent, except to the extent, if any, otherwise expressly provided herein. If Tenant shall fail to perform any obligation under this Lease, and such failure shall continue in excess of the time allowed under Section 19.1.2, above, unless a specific time period is otherwise stated in this Lease, Landlord may, but shall not be obligated to, make any such payment or perform any such act on Tenant's part without waiving its rights based upon any default of Tenant and without releasing Tenant from any obligations hereunder.

26.2 **Tenant's Reimbursement.** Except as may be specifically provided to the contrary in this Lease, Tenant shall pay to Landlord, upon delivery by Landlord to Tenant of statements therefor: (i) sums equal to expenditures reasonably made and obligations incurred by Landlord in connection with the remedying by Landlord of Tenant's defaults pursuant to the provisions of Section 26.1; (ii) sums equal to all losses, costs, liabilities,

damages and expenses referred to in Article 10 of this Lease; and (iii) subject to Section 29.21, sums equal to all expenditures made and obligations incurred by Landlord in collecting or attempting to collect the Rent or in enforcing or attempting to enforce any rights of Landlord under this Lease or pursuant to law, including, without limitation, all reasonable legal fees and other amounts so expended. Tenant's obligations under this Section 26.2 shall survive the expiration or sooner termination of the Lease Term.

**27. ENTRY BY LANDLORD** Landlord reserves the right at all reasonable times and upon reasonable notice to Tenant (except in the case of an Emergency) to enter the Premises to (i) inspect them; (ii) show the Premises to prospective purchasers, or to current or prospective mortgagees, ground or underlying lessors or insurers or, during the last nine (9) months of the Lease Term, to prospective tenants; (iii) post notices of nonresponsibility (to the extent applicable pursuant to then applicable law); or (iv) repair the Premises or the Building, or for structural repairs to the Building or the Building's systems and equipment as provided under the Lease. Landlord may make any such entries without the abatement of Rent, except as otherwise provided in this Lease, and may take such reasonable steps as required to accomplish the stated purposes. In an Emergency, Landlord shall have the right to use any means that Landlord may deem proper to open the doors in and to the Premises. Any entry into the Premises by Landlord in the manner hereinbefore described shall not be deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an actual or constructive eviction of Tenant from any portion of the Premises. Landlord shall use commercially reasonable efforts to minimize any interference with Tenant's use of or access to the Premises in connection with any such entry, and shall comply with Tenant's reasonable security measures. Landlord shall hold confidential any information regarding Tenant's business that it may learn as a result of such entry.

**28. TENANT PARKING** Tenant shall have the right, without the payment of any parking charge or fee (other than as a reimbursement of operating expenses to the extent allowed pursuant to the terms or Article 4 of this Lease, above), commencing on the Lease Commencement Date, to use the amount of parking set forth in Section 9 of the Summary, in the on-site parking lot and garage which serves the Building. Tenant shall abide by all reasonable rules and regulations which are prescribed from time to time for the orderly operation and use of the parking facility where the parking passes are located (including any sticker or other identification system established by Landlord and the prohibition of vehicle repair and maintenance activities in the parking facilities), and shall cooperate in seeing that Tenant's employees and visitors also comply with such rules and regulations. Tenant's use of the Project parking facility shall be at Tenant's sole risk and Tenant acknowledges and agrees that Landlord shall have no liability whatsoever for damage to the vehicles of Tenant, its employees and/or visitors, or for other personal injury or property damage or theft relating to or connected with the parking rights granted herein or any of Tenant's, its employees' and/or visitors' use of the parking facilities. Landlord shall not oversubscribe parking. Landlord shall use commercially reasonable efforts to prevent the occupants of neighboring buildings from parking in the lot serving the Building.

**29. MISCELLANEOUS PROVISIONS**

**29.1 Terms; Captions.** The words "**Landlord**" and "**Tenant**" as used herein shall include the plural as well as the singular. The necessary grammatical changes required to make the provisions hereof apply either to corporations or partnerships or individuals, men or women, as the case may require, shall in all cases be assumed as though in each case fully expressed. The captions of Articles and Sections are for convenience only and shall not be deemed to limit, construe, affect or alter the meaning of such Articles and Sections.

**29.2 Binding Effect.** Subject to all other provisions of this Lease, each of the covenants, conditions and provisions of this Lease shall extend to and shall, as the case may require, bind or inure to the benefit not only of Landlord and of Tenant, but also of their respective heirs, personal representatives, successors or assigns, provided this clause shall not permit any assignment by Tenant contrary to the provisions of Article 14 of this Lease.

**29.3 No Air Rights.** No rights to any view or to light or air over any property, whether belonging to Landlord or any other person, are granted to Tenant by this Lease. If at any time any windows of the Premises are temporarily darkened or the light or view therefrom is obstructed by reason of any repairs, improvements, maintenance or cleaning in or about the Project, the same shall be without liability to Landlord and without any reduction or diminution of Tenant's obligations under this Lease.

29.4 **Modification of Lease.** Should any current or prospective mortgagee or ground lessor for the Building or Project require a modification of this Lease, which modification will not cause an increased cost or expense to Tenant or in any other way materially and adversely change the rights and obligations of Tenant hereunder or interfere with Tenant's use of the Premises, then and in such event, Tenant agrees that this Lease may be so modified and agrees to execute whatever documents are reasonably required therefor and to deliver the same to Landlord within ten (10) business days following a request therefor. At the request of Landlord or any mortgagee or ground lessor, Tenant agrees to execute a short form of Lease and deliver the same to Landlord within ten (10) business days following the request therefor.

29.5 **Transfer of Landlord's Interest.** Tenant acknowledges that Landlord has the right to transfer all or any portion of its interest in the Project or Building and in this Lease, and Tenant agrees that in the event of any such transfer, Landlord shall automatically be released from all liability under this Lease and Tenant agrees to look solely to such transferee for the performance of Landlord's obligations hereunder accruing after the date of transfer provided such transferee shall have fully assumed and agreed in writing to be liable for all obligations of this Lease to be performed by Landlord, including the return of any security deposit or L-C, and Tenant shall attorn to such transferee.

29.6 **Prohibition Against Recording.** Except as provided in Section 29.4 of this Lease, neither this Lease, nor any memorandum, affidavit or other writing with respect thereto, shall be recorded by Tenant or by anyone acting through, under or on behalf of Tenant.

29.7 **Landlord's Title.** Landlord's title is and always shall be paramount to the title of Tenant. Nothing herein contained shall empower Tenant to do any act which can, shall or may encumber the title of Landlord.

29.8 **Relationship of Parties.** Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venturer or any association between Landlord and Tenant.

29.9 **Payment under Protest.** If Tenant in good faith disputes any amounts billed by Landlord, other than (i) Base Rent, (ii) Tenant's Share of Direct Expenses (as to which Tenant may exercise its rights under Section 4.6, above), Tenant may make payment of such amounts under protest, and reserve all of its rights with respect to such amounts (the "**Disputed Amounts**"). Landlord and Tenant shall meet and confer to discuss the Disputed Amounts and attempt, in good faith, to resolve the particular dispute. If, despite such good faith efforts, Landlord and Tenant are unable to reach agreement regarding the Disputed Amounts, either party may submit the matter to binding arbitration under the JAMS Streamlined Arbitration Rules & Procedures. The non-prevailing party, as determined by JAMS, will be responsible to pay all fees and costs incurred in connection with the JAMS procedure, as well as all other costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party. This Section 29.9 shall not apply to claims relating to Landlord's exercise of any unlawful detainer rights pursuant to California law or rights or remedies used by Landlord to gain possession of the Premises or terminate Tenant's right of possession to the Premises.

29.10 **Time of Essence.** Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

29.11 **Partial Invalidity.** If any term, provision or condition contained in this Lease shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, provision or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and each and every other term, provision and condition of this Lease shall be valid and enforceable to the fullest extent possible permitted by law.

29.12 **No Warranty.** In executing and delivering this Lease, Tenant has not relied on any representations, including, but not limited to, any representation as to the amount of any item comprising Additional Rent or the amount of the Additional Rent in the aggregate or that Landlord is furnishing the same services to other tenants, at all, on the same level or on the same basis, or any warranty or any statement of Landlord which is not set forth herein or in one or more of the exhibits attached hereto.

29.13 **Landlord Exculpation.** The liability of Landlord or the Landlord Parties to Tenant for any default by Landlord under this Lease or arising in connection herewith or with Landlord's operation, management, leasing, repair, renovation, alteration or any other matter relating to the Project or the Premises shall be limited solely and exclusively to an amount which is equal to the lesser of (a) the interest of Landlord in the Project or (b) the equity interest Landlord would have in the Project if the Project were encumbered by third-party debt in an amount equal to seventy percent (70%) of the value of the Project (as such value is determined by Landlord), including any rental, condemnation, sales and insurance proceeds received by Landlord or the Landlord Parties in connection with the Project, Building or Premises. No Landlord Parties (other than Landlord) shall have any personal liability therefor, and Tenant hereby expressly waives and releases such liability on behalf of itself and all persons claiming by, through or under Tenant. The limitations of liability contained in this Section 29.13 shall inure to the benefit of Landlord's and the Landlord Parties' present and future partners, beneficiaries, officers, directors, trustees, shareholders, agents and employees, and their respective partners, heirs, successors and assigns. Under no circumstances shall any present or future partner of Landlord (if Landlord is a partnership), or trustee or beneficiary (if Landlord or any partner of Landlord is a trust), have any liability for the performance of Landlord's obligations under this Lease. Notwithstanding any contrary provision herein, neither Landlord nor the Landlord Parties shall be liable under any circumstances for injury or damage to, or interference with, Tenant's business, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring, or loss to inventory, scientific research, scientific experiments, laboratory animals, products, specimens, samples, and/or scientific, business, accounting and other records of every kind and description kept at the premises and any and all income derived or derivable therefrom.

29.14 **Entire Agreement.** It is understood and acknowledged that there are no oral agreements between the parties hereto affecting this Lease and this Lease constitutes the parties' entire agreement with respect to the leasing of the Premises and supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto or displayed by Landlord to Tenant with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Lease. None of the terms, covenants, conditions or provisions of this Lease can be modified, deleted or added to except in writing signed by the parties hereto.

29.15 **Right to Lease.** Landlord reserves the absolute right to effect such other tenancies in the Project as Landlord in the exercise of its sole business judgment shall determine to best promote the interests of the Building or Project. Tenant does not rely on the fact, nor does Landlord represent, that any specific tenant or type or number of tenants shall, during the Lease Term, occupy any space in the Building or Project.

29.16 **Force Majeure.** Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, acts of war, terrorist acts, inability to obtain services, labor, or materials or reasonable substitutes therefor, governmental actions, civil commotions, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, except with respect to the obligations imposed with regard to Rent and other charges to be paid by Tenant pursuant to this Lease (collectively, a "**Force Majeure**"), notwithstanding anything to the contrary contained in this Lease, shall excuse the performance of such party for a period equal to any such prevention, delay or stoppage and, therefore, if this Lease specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party's performance caused by a Force Majeure, provided, however, the foregoing delays shall not apply to Tenant's termination rights hereunder.

29.17 **Material Adverse Judgments.** Tenant hereby represents and warrants that, to its actual knowledge, as of the Effective Date (i) there are no actions pending against Tenant under the bankruptcy or similar laws of the United States or any state, and (ii) there are no actions pending against Tenant that, if determined or adjudicated adversely to Tenant, could materially impair Tenant's ability to perform its obligations under this Lease ("**Material Adverse Judgments**"). During the Lease Term, if any Material Adverse Judgment is made or entered against Tenant, Tenant shall promptly notify Landlord of such Material Adverse Judgment in writing with reasonably sufficient detail.

29.18 **Notices.** All notices, demands, statements, designations, approvals or other communications (collectively, "**Notices**") given or required to be given by either party to the other hereunder or by law shall be in writing, shall be (A) sent by United States certified or registered mail, postage prepaid, return receipt requested ("**Mail**"), (B) delivered by a nationally recognized overnight courier, or (C) delivered personally. Any Notice shall

be sent, transmitted, or delivered, as the case may be, to Tenant at the appropriate address set forth in Section 10 of the Summary, or to such other place as Tenant may from time to time designate in a Notice to Landlord, or to Landlord at the addresses set forth below, or to such other places as Landlord may from time to time designate in a Notice to Tenant. Any Notice will be deemed given (i) three (3) business days after the date it is posted if sent by Mail, (ii) the date the overnight courier delivery is made, or (iii) the date personal delivery is made. As of the date of this Lease, any Notices to Landlord must be sent, transmitted, or delivered, as the case may be, to the following addresses:

HCP BTC, LLC  
c/o Healthpeak Properties, Inc.  
1920 Main Street, Suite 1200  
Irvine, CA 92614  
Attn: Legal Department

and

Healthpeak Properties, Inc.  
1920 Main Street, Suite 1200  
Irvine, CA 92614  
Attention: Scott Bohn

and

Allen Matkins Leck Gamble Mallory & Natsis LLP  
1901 Avenue of the Stars, Suite 1800  
Los Angeles, California 90067  
Attention: Anton N. Natsis, Esq.

29.19 **Joint and Several.** If there is more than one tenant, the obligations imposed upon Tenant under this Lease shall be joint and several.

29.20 **Authority.** If Tenant is a corporation, trust or partnership, Tenant hereby represents and warrants that Tenant is a duly formed and existing entity qualified to do business in the State of California and that Tenant has full right and authority to execute and deliver this Lease and that each person signing on behalf of Tenant is authorized to do so.

29.21 **Attorneys' Fees.** In the event that either Landlord or Tenant should bring suit for the possession of the Premises, for the recovery of any sum due under this Lease, or because of the breach of any provision of this Lease or for any other relief against the other, then all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party therein shall be paid by the other party, which obligation on the part of the other party shall be deemed to have accrued on the date of the commencement of such action and shall be enforceable whether or not the action is prosecuted to judgment.

29.22 **Governing Law; WAIVER OF TRIAL BY JURY; Judicial Reference.**

29.22.1 **Governing Law.** This Lease shall be construed and enforced in accordance with the laws of the State of California. In any action or proceeding arising herefrom, Landlord and Tenant hereby consent to (i) the jurisdiction of any competent court within the State of California, (ii) service of process by any means authorized by California law.

29.22.2 **WAIVER OF TRIAL BY JURY.** IN THE INTEREST OF SAVING TIME AND EXPENSE, TRIAL WITHOUT A JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER OR THEIR SUCCESSORS IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES, AND/OR ANY CLAIM FOR INJURY OR DAMAGE, OR ANY EMERGENCY OR STATUTORY REMEDY. IN THE EVENT



LANDLORD COMMENCES ANY SUMMARY PROCEEDINGS OR ACTION FOR NONPAYMENT OF BASE RENT OR ADDITIONAL RENT, TENANT SHALL NOT INTERPOSE ANY COUNTERCLAIM OF ANY NATURE OR DESCRIPTION (UNLESS SUCH COUNTERCLAIM SHALL BE MANDATORY) IN ANY SUCH PROCEEDING OR ACTION, BUT SHALL BE RELEGATED TO AN INDEPENDENT ACTION AT LAW.

29.22.3 **Judicial Reference.** If the jury waiver provisions of this Section 29.22 are not enforceable under California law, then the following provisions shall apply. It is the desire and intention of the parties to agree upon a mechanism and procedure under which controversies and disputes arising out of this Lease or related to the Premises will be resolved in a prompt and expeditious manner. Accordingly, except with respect to actions for unlawful or forcible detainer or with respect to the prejudgment remedy of attachment, any action, proceeding or counterclaim brought by either party hereto against the other (and/or against its officers, directors, employees, agents or subsidiaries or affiliated entities) on any matters whatsoever arising out of or in any way connected with this Lease, Tenant's use or occupancy of the Premises and/or any claim of injury or damage, whether sounding in contract, tort, or otherwise, shall be heard and resolved by a referee under the provisions of the California Code of Civil Procedure, Sections 638 — 645.1, inclusive (as same may be amended, or any successor statute(s) thereto) (the “**Referee Sections**”). Any fee to initiate the judicial reference proceedings and all fees charged and costs incurred by the referee shall be paid by the party initiating such procedure (except that if a reporter is requested by either party, then a reporter shall be present at all proceedings where requested and the fees of such reporter – except for copies ordered by the other parties – shall be borne by the party requesting the reporter); provided however, that allocation of the costs and fees, including any initiation fee, of such proceeding shall be ultimately determined in accordance with Section 29.21 above. The venue of the proceedings shall be in the county in which the Premises are located. Within ten (10) days of receipt by any party of a written request to resolve any dispute or controversy pursuant to this Section 29.22, the parties shall agree upon a single referee who shall try all issues, whether of fact or law, and report a finding and judgment on such issues as required by the Referee Sections. If the parties are unable to agree upon a referee within such ten (10) day period, then any party may thereafter file a lawsuit in the county in which the Premises are located for the purpose of appointment of a referee under the Referee Sections. If the referee is appointed by the court, the referee shall be a neutral and impartial retired judge with substantial experience in the relevant matters to be determined, from JAMS, the American Arbitration Association or similar mediation/arbitration entity. the proposed referee may be challenged by any party for any of the grounds listed in the Referee Sections. The referee shall have the power to decide all issues of fact and law and report his or her decision on such issues, and to issue all recognized remedies available at law or in equity for any cause of action that is before the referee, including an award of attorneys' fees and costs in accordance with this Lease. The referee shall not, however, have the power to award punitive damages, nor any other damages which are prohibited by the express provisions of this Lease, and the parties hereby waive any right to recover any such damages. The parties shall be entitled to conduct all discovery as provided in the California Code of Civil Procedure, and the referee shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge, with rights to regulate discovery and to issue and enforce subpoenas, protective orders and other limitations on discovery available under California law. The reference proceeding shall be conducted in accordance with California law (including the rules of evidence), and in all regards, the referee shall follow California law applicable at the time of the reference proceeding. The parties shall promptly and diligently cooperate with one another and the referee, and shall perform such acts as may be necessary to obtain a prompt and expeditious resolution of the dispute or controversy in accordance with the terms of this Section 29.22. In this regard, the parties agree that the parties and the referee shall use best efforts to ensure that (a) discovery be conducted for a period no longer than six (6) months from the date the referee is appointed, excluding motions regarding discovery, and (b) a trial date be set within nine (9) months of the date the referee is appointed. In accordance with Section 644 of the California Code of Civil Procedure, the decision of the referee upon the whole issue must stand as the decision of the court, and upon the filing of the statement of decision with the clerk of the court, or with the judge if there is no clerk, judgment may be entered thereon in the same manner as if the action had been tried by the court. Any decision of the referee and/or judgment or other order entered thereon shall be appealable to the same extent and in the same manner that such decision, judgment, or order would be appealable if rendered by a judge of the Superior Court in which venue is proper hereunder. The referee shall in his/her statement of decision set forth his/her findings of fact and conclusions of law. the parties intend this general reference agreement to be specifically enforceable in accordance with the Code of Civil Procedure. Nothing in this Section 29.22 shall prejudice the right of any party to obtain provisional relief or other equitable remedies from a

court of competent jurisdiction as shall otherwise be available under the code of civil procedure and/or applicable court rules.

29.23 **Submission of Lease.** Submission of this instrument for examination or signature by Tenant does not constitute a reservation of, option for or option to lease, and it is not effective as a lease or otherwise until execution and delivery by both Landlord and Tenant.

29.24 **Brokers.** Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Lease, excepting only the real estate brokers or agents specified in Section 12 of the Summary (the "**Brokers**"), and that they know of no other real estate broker or agent who is entitled to a commission in connection with this Lease. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate broker or agent, other than the Brokers, occurring by, through, or under the indemnifying party. The terms of this Section 29.24 shall survive the expiration or earlier termination of the Lease Term.

29.25 **Independent Covenants.** This Lease shall be construed as though the covenants herein between Landlord and Tenant are independent and not dependent and Tenant hereby expressly waives the benefit of any statute to the contrary and agrees that if Landlord fails to perform its obligations set forth herein, Tenant shall not be entitled to make any repairs or perform any acts hereunder at Landlord's expense or to any setoff of the Rent or other amounts owing hereunder against Landlord.

29.26 **Project or Building Name, Address and Signage.** Landlord shall have the right at any time to change the name and/or address of the Project or Building (and Landlord shall reimburse Tenant its actual, reasonable costs incurred as a result of such change, if any) and, subject to Section 23.1, to install, affix and maintain any and all signs on the exterior and on the interior of the Project or Building as Landlord may, in Landlord's sole discretion, desire. Tenant shall not use the name of the Project or Building or use pictures or illustrations of the Project or Building in advertising or other publicity or for any purpose other than as the address of the business to be conducted by Tenant in the Premises, without the prior written consent of Landlord.

29.27 **Counterparts.** This Lease may be executed in counterparts with the same effect as if both parties hereto had executed the same document. Both counterparts shall be construed together and shall constitute a single lease.

29.28 **Good Faith.** Except (i) for matters for which there is a standard of consent or discretion specifically set forth in this Lease; (ii) matters which could have an adverse effect on the Building Structure or the Building Systems, or which could affect the exterior appearance of the Building, or (iii) matters covered by Article 4 (Additional Rent), or Article 19 (Defaults; Remedies) of this Lease (collectively, the "**Excepted Matters**"), any time the consent of Landlord or Tenant is required, such consent shall not be unreasonably withheld or delayed, and, except with regard to the Excepted Matters, whenever this Lease grants Landlord or Tenant the right to take action, exercise discretion, establish rules and regulations or make an allocation or other determination, Landlord and Tenant shall act reasonably and in good faith.

29.29 **Development of the Project.**

29.29.1 **Subdivision.** Landlord reserves the right to subdivide all or a portion of the buildings and Common Areas, so long as the same does not interfere with Tenant's use of or access to the Premises or Tenant's parking rights. Tenant agrees to execute and deliver, upon demand by Landlord and in the form requested by Landlord, any additional documents needed to conform this Lease to the circumstances resulting from a subdivision and any all maps in connection therewith, so long as the same does not increase Tenant's obligations or decrease Tenant's rights under this Lease. Notwithstanding anything to the contrary set forth in this Lease, the separate ownership of any buildings and/or Common Areas by an entity other than Landlord shall not affect the calculation of Direct Expenses or Tenant's payment of Tenant's Share of Direct Expenses.

29.29.2 **Construction of Property and Other Improvements.** Tenant acknowledges that portions of the Project may be under construction following Tenant's occupancy of the Premises, and that such construction may result in levels of noise, dust, obstruction of access, etc. which are in excess of that present in a

fully constructed project. Tenant hereby waives any and all rent offsets or claims of constructive eviction which may arise in connection with such construction, so long as the same does not interfere with Tenant's use of or access to the Premises or Tenant's parking rights.

29.30 **No Violation.** Tenant hereby warrants and represents that neither its execution of nor performance under this Lease shall cause Tenant to be in violation of any agreement, instrument, contract, law, rule or regulation by which Tenant is bound, and Tenant shall protect, defend, indemnify and hold Landlord harmless against any claims, demands, losses, damages, liabilities, costs and expenses, including, without limitation, reasonable attorneys' fees and costs, arising from Tenant's breach of this warranty and representation.

29.31 **Transportation Management.** Tenant shall fully comply with all present or future programs required by applicable laws intended to manage parking, transportation or traffic in and around the Project and/or the Building, and in connection therewith, Tenant shall take responsible action for the transportation planning and management of all employees located at the Premises by working directly with Landlord, any governmental transportation management organization or any other transportation-related committees or entities. Such programs may include, without limitation: (i) restrictions on the number of peak-hour vehicle trips generated by Tenant; (ii) increased vehicle occupancy; (iii) implementation of an in-house ridesharing program and an employee transportation coordinator; (iv) working with employees and any Project, Building or area-wide ridesharing program manager; (v) to the extent required by Applicable Law only, instituting employer-sponsored incentives (financial or in-kind) to encourage employees to rideshare; and (vi) utilizing flexible work shifts for employees.

29.32 **Traffic Mitigation.** Landlord hereby agrees to contact the applicable governmental authorities and request and use commercially reasonable efforts to work with the applicable governmental authorities to endeavor to modify the traffic lights outside of the Project on Oyster Point Boulevard in an effort to improve the flow of traffic at the entrance and exit to the Project so cars on Oyster Point do not block the entrance/exit to the Building parking garage. Tenant hereby acknowledges that Landlord makes no representation or warranty with respect to any change or modification in the traffic lights serving the Project, and any failure of the applicable governmental authority to make any such changes or modifications shall impact the validity of this Lease.

**[signatures contained on following page]**

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed the day and date first above written.

LANDLORD:

**HCP BTC, LLC,**  
a Delaware limited liability company

By: /s/ Scott R. Rohn

Name: Scott R. Bohn

Title: Chief Development Officer

TENANT:

**PLIANT THERAPEUTICS, INC.,**  
a Delaware corporation

By: /s/ Keith Cummings

Keith Cummings  
Print Name

Its: Chief Financial Officer

**LEASE**

**BRITANNIA OYSTER POINT**

**HCP BTC, LLC,**

a Delaware limited liability company,

as Landlord,

and

**PLIANT THERAPEUTICS, INC.,**

a Delaware corporation,

as Tenant.

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\*Exhibits A through G have been omitted in accordance with Item 601(a)(5) of Regulation S-K. The registrant agrees to furnish supplementally a copy of any omitted exhibit to the SEC upon its request.

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## TERMINATION AGREEMENT

This Termination Agreement (this "**Agreement**") is entered into as of September 28, 2023, by and between **HEALTHPEAK OP, LLC**, a Maryland limited liability company (successor-interest to HCP, Inc., and referred to herein as "**Landlord**"), and **PLIANT THERAPEUTICS, INC.**, a Delaware corporation ("**Tenant**").

### RECITALS

A. Landlord and Tenant are parties to the Lease dated February 6, 2018 (the "**Lease**"), whereby Tenant leases approximately 32,974 rentable square feet of space (the "**Premises**"), consisting of the entire building located at 260 Littlefield Avenue, South San Francisco, California 94080.

B. Concurrently herewith, **HCP BTC, LLC**, a Delaware limited liability company, an affiliate of Landlord's ("**Oyster Point Landlord**") and Tenant have entered into that certain Lease dated concurrently herewith (the "**New Lease**"), whereby Tenant is leasing approximately 100,904 rentable square feet of space in the building located at 331 Oyster Point Boulevard, South San Francisco, CA 94080.

C. Tenant and Landlord desire to enter into this Agreement in order to provide for a full termination of the Lease as of the date that is sixty (60) days after the "Lease Commencement Date" of the New Lease (as such term shall be defined in the New Lease, the "**New Lease Commencement Date**"). Each capitalized term when used herein shall have the same respective meaning as is given such term in the Lease, unless expressly provided otherwise in this Agreement.

### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the conditions and the covenants hereinafter contained, and for other consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows.

1. **Termination of the Lease.** The Lease is currently scheduled to expire on June 30, 2025. Notwithstanding the foregoing, the Lease shall terminate and be of no further force or effect as of 11:59 P.M. on the date that is sixty (60) days after the New Lease Commencement Date ("**Termination Date**") as if such date was the expiration date of the Lease, provided that Landlord hereby agrees that Tenant shall not be obligated to pay Base Rent or Tenant's Share of Direct Expenses in connection with the Premises from and after the occurrence of the New Lease Commencement Date. The sixty (60) day period commencing on the New Lease commencement Date and ending on the Termination Date shall be the "**Move Out Period**." Landlord hereby agrees that Tenant shall have the right, upon written notice delivered to Landlord on or before March 1, 2024, to extend such Termination Date by thirty (30) days. Notwithstanding any provision to the contrary contained herein, Tenant hereby acknowledges that Tenant shall continue to be obligated to make Additional TI Allowance Payments (in the amount of \$9,775.67) which Tenant is obligated to pay pursuant to the Lease until the Termination Date (including any extension of such Termination Date), but shall be relieved from its obligation to make such Additional TI Allowance Payments following the Termination Date.

2. **Surrender of Premises.** Tenant hereby agrees to vacate the Premises and surrender and deliver exclusive possession thereof to Landlord on or before the Termination Date, in accordance with the provisions of the Lease, including, without limitation, the terms of Article 15 of the Lease, provided that Landlord hereby agrees that Tenant shall not be obligated to remove or restore the Tenant Improvements or any Alterations or other improvements in the Premises as of the date of this Agreement.

3. **Representations of Tenant.** Tenant represents and warrants to Landlord that (a) as of the date hereof, and as of the Termination Date, there is no sublease in effect with respect to the Premises; (b) no other person, firm or entity has any right, title or interest in the Lease through Tenant; (c) Tenant has the full right, legal power and actual authority to enter into this Agreement and to terminate the Lease without the consent of any person, firm or entity; and (d) Tenant has the full right, legal power and actual authority to bind Tenant to the terms and conditions hereof. Tenant further represents and warrants to Landlord that as of the date hereof there are no, and as of the Termination Date there shall not be any, mechanic's liens or other liens encumbering all or any portion of the Premises, by virtue of any alterations or other work performed by or on behalf of Tenant, its predecessors, contractors, agents, employees, successors

or assigns. Notwithstanding the termination of the Lease, the representations and warranties set forth in this Section 3 shall survive the Termination Date and Tenant shall be liable to Landlord for any inaccuracy or any breach thereof.

4. **Continuing Liability.** Notwithstanding the termination of the Lease, Tenant shall remain liable, with respect to the period of its tenancy prior to the Termination Date, for the performance of all of its obligations under the Lease (provided that Tenant shall not be required to pay Base Rent or Tenant's Share of Direct Expenses during the Move Out Period, but shall continue to be obligated to pay Additional TI Allowance Payments until the Termination Date) and Landlord shall have all the rights and remedies with respect to such obligations as set forth in the Lease. In the event that Tenant retains possession of the Premises, or any part thereof, after the Termination Date, then the provisions of Article 16 of the Lease shall apply.

5. **Attorneys' Fees.** Should any dispute arise between the parties hereto or their legal representatives, successors and assigns concerning any provision of this Agreement or the rights and duties of any person in relation thereto, the party prevailing in such dispute shall be entitled, in addition to such other relief that may be granted, to recover reasonable attorneys' fees and legal costs in connection with such dispute.

6. **Governing Law.** This Agreement shall be governed and construed under the laws of the State of California.

7. **Counterparts; Signatures.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but such counterparts, when taken together, shall constitute one agreement. Signatures of the parties transmitted by telefacsimile or electronic mail PDF format shall be deemed to constitute originals and may be relied upon, for all purposes, as binding the transmitting party hereto. The parties intend to be bound by the signatures transmitted by telefacsimile or electronic mail PDF format, are aware that the other party will rely on such signature, and hereby waive any defenses to the enforcement of the terms of this Agreement based on the form of signature.

8. **Binding Effect.** This Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective legal representatives, successors and assigns.

9. **Time of the Essence.** Time is of the essence of this Agreement and the provisions contained herein.

10. **Further Assurances.** Landlord and Tenant hereby agree to execute such further documents or instruments as may be necessary or appropriate to carry out the intention of this Agreement.

11. **Voluntary Agreement.** The parties have read this Agreement and mutual release as contained herein, and on the advice of counsel they have freely and voluntarily entered into this Agreement.

12. **No Loan.** Landlord represents that the Project is not currently subject to any ground lease or to the lien of any mortgage or deed of trust.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Agreement as of the day and year first above written.

**LANDLORD:**

**HEALTHPEAK OP, LLC,**  
a Maryland limited liability company.

By: /s/ Scott R. Bohn

Name: Scott R. Bohn

Its: Chief Development Officer

**TENANT:**

**PLIANT THERAPEUTICS, INC.,**  
a Delaware corporation

By: /s/Keith Cummings

Keith Cummings

Print Name

Its: Chief Financial Officer