

**PERMIT TO ENTER AND USE PROPERTY**  
(Construction License)

THIS PERMIT TO ENTER AND USE PROPERTY (Construction License) (this “**Permit**”), dated for reference purposes only as of \_\_\_\_\_, 20\_\_\_, is made by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“**City**”), and THE REGENTS OF THE UNIVERSITY OF CALIFORNIA (“**Permittee**”).

**RECITALS**

A. City and Permittee have entered into that certain Lease Disposition and Development Agreement, dated October \_\_, 2016 (the “**LDDA**”), pursuant to which City agreed to lease to Permittee a portion of the The Priscilla Chan and Mark Zuckerberg San Francisco General Hospital and Trauma Center, located in the City and County of San Francisco (“**ZSFG**”), to Permittee, and Permittee agreed to lease such property (the “**Leased Property**”) from City on the terms and conditions of a lease in the form attached to the LDDA (the “**Ground Lease**”), upon satisfaction of certain conditions precedent contained in the LDDA.

B. Under the LDDA, Permittee has the right to construct a research facility on the Leased Property (as described in the LDDA, the “**Project**”), and Permittee agreed to perform certain improvements referred to in the LDDA as the “**ZSFG Campus Improvements**” to that portion of the ZSFG campus outside of the Leased Area referred to in the LDDA as the “**ZSFG Site**”, which is shown on Exhibit A attached hereto (the “**Permit Area**”). The LDDA sets forth the terms and conditions applicable to the development and approval of construction drawings for the ZSFG Campus Improvements, the selection of a contractor for the relevant work, the regulations and standards applicable to the ZSFG Campus Improvements, the process for City’s acceptance of the completed improvements for liability and maintenance, and related matters.

C. The LDDA contemplates that upon Close of Escrow, Permittee and City will enter into (i) the Ground Lease for the Leased Property and (ii) this Permit for use of the Permit Area. The conditions for Close of Escrow have been satisfied or waived, and City and Permittee presently desire to enter into this Permit for Permittee’s use of the Permit Area on the terms and conditions set forth below.

D. Capitalized terms not otherwise defined herein shall have the meanings given in the LDDA.

**PERMIT**

City and Permittee agree as follows:

**1. LICENSE; NON-EXCLUSIVE USE.** City confers to Permittee a non-exclusive and non-possessory privilege for Permittee and its officers, agents, employees, contractors, and subcontractors (collectively, “**Agents**”), to enter upon and use the Permit Area for the limited purpose set forth herein and subject to the terms, conditions and restrictions set forth in the LDDA and in this Permit.

Permittee acknowledges that City anticipates making exterior improvements along the perimeter of the ZSFG building known as Building 5 and other improvements on the ZSFG campus that will be performed concurrently with Permittee’s construction of the Project (as defined in the LDDA) and the ZSFG Campus Improvements, and that the existing internal campus roadway and pedestrian access within the Permit Area is critical for construction access by both Permittee and City for their respective projects, and for access by staff, patients and visitors to Building 5 and the new ZSFG main hospital building, and must be kept operational at all times during Permittee’s construction. Permittee acknowledges that Permittee may be required to provide temporary improvements to allow continued use of the roadway and

pedestrian access.

This Permit gives Permittee a license only, and notwithstanding anything to the contrary herein, this Permit does not constitute a grant by City of any ownership, leasehold, easement or other property interest or estate whatsoever in the Permit Area, or any portion thereof.

**2. USE OF PERMIT AREA.** Permittee may enter and use the Permit Area only for the limited purposes of performing the ZSFG Campus Improvements, providing limited construction staging for the Project, accessing the Leased Property for construction of the Project, and otherwise performing Permittee's obligations under this Permit (collectively, the "**Permitted Activities**"). The Permitted Activities shall be performed in compliance with work plans approved in advance by City in accordance with the terms and conditions of the LDDA (the "**Work Plan**") and in accordance with the Joint Work Schedule developed and modified from time to time as provided in the LDDA. Permittee shall not amend, modify or supplement an approved Work Plan except in accordance with the terms and conditions of the LDDA. If the terms of this Permit are more restrictive than the Work Plan, Permittee shall comply with the more restrictive terms of this Permit.

**3. SCOPE OF WORK.** Permittee shall perform the Permitted Activities as described in the Work Plan and in compliance with the terms of this Permit, including the following conditions, which are for the sole benefit of City:

**3.1 Work Plan.** Permittee shall perform all Permitted Activities in accordance with the Work Plan, or any amendments or modifications thereto approved in advance and in writing by City in accordance with the terms and provisions of the LDDA.

**3.2 Permits and Approvals.** Before beginning the Permitted Activities, Permittee shall obtain all permits, licenses and approvals (collectively, "**Approvals**") of any regulatory agencies required to commence and complete the Permitted Activities as more particularly provided in the LDDA. Promptly upon receipt of the Approvals, Permittee shall deliver copies of them to City. Permittee recognizes and agrees that no approval by City for purposes of Permittee's Permitted Activities hereunder shall be deemed to constitute the Approval required of any federal, state or local regulatory authority with jurisdiction, and nothing herein shall limit Permittee's obligation to obtain all such Approvals at Permittee's sole cost. City agrees to reasonably cooperate with Permittee, at no cost to City, to obtain such Approvals, to the extent required by the applicable governmental authorities, as more particularly provided in Section 2.10(b)(ii) of the LDDA.

**3.4 Exercise of Due Care.** Permittee shall use, and shall cause its Agents to use, reasonable due care at all times to avoid injury to any person or any damage or harm to the Permit Area or any other portion of the ZSFG campus resulting from the Permitted Activities.

**3.5 Cooperation with City Personnel.** Permittee and its Agents shall work closely with City personnel to minimize disruption of City and public uses of the Permit Area and the balance of the ZSFG campus, to the extent reasonably possible.

**3.6 Work Schedule.** Permittee shall perform the Permitted Activities in accordance with the Joint Work Schedule developed in accordance with the LDDA, as revised and updated from time to time in accordance with the LDDA.

**3.7 Restoration of Permit Area.** If this Permit is terminated prior to the completion and acceptance by City of the ZSFG Campus Improvements, Permittee shall restore the Permit Area in accordance with the terms and conditions of the LDDA.

**4. RESTRICTIONS ON USE.** Permittee agrees that, by way of example only and without limitation, the following uses of the Permit Area by Permittee or any other party claiming by or

through Permittee are inconsistent with the limited purpose of this Permit and are strictly prohibited as provided below:

**4.1 Improvements.** Except in connection with the Permitted Activities and described in an approved Work Plan or as otherwise expressly provided in this Permit, Permittee shall not construct or place any temporary or permanent structures or improvements on the Permit Area.

**4.2 Dumping.** Permittee shall not dump or dispose of refuse or other unsightly materials on, in, under or about the Permit Area.

**4.3 Nuisances; No Interference.** Permittee shall not conduct any activities on or about the Permit Area that constitute waste, nuisance or unreasonable annoyance (including, without limitation, emission of objectionable odors, noises or lights) to City, to the owners or occupants of neighboring property or to the public; provided, however, that the emission of odors, noise, light and similar matters which are customarily associated with the performance of construction of improvements similar to the ZSFG Campus Improvements or with the performance of activities similar to other Permitted Activities at the levels customarily associated with such work or activities shall not constitute a violation of this Section 4.3 by Permittee provided such work or activities are carried out in compliance with the approved Work Plan.

**4.4 Utilities.** City has no responsibility or liability of any kind or character with respect to any utilities that may be on, in or under the Permit Area; provided, City agrees to provide Permittee with any information regarding the location of such utilities known to City. Permittee has the sole responsibility to locate such utilities and protect them from damage caused by any Permitted Activities, and Permittee has sole responsibility for any damage to utilities or damages resulting from Permittee's or Permittee's Agents' activities at the Permit Area. If any City or public or private utility company facilities within the Permit Area reasonably require temporary relocation solely to facilitate any of the Permitted Activities, Permittee shall make reasonable satisfactory arrangements for any such temporary relocation, which temporary relocation shall be performed at Permittee's sole cost and expense and shall be subject to the prior written approval of City, which approval shall not be unreasonably withheld, conditioned or delayed, and any such utility companies. Permittee shall be solely responsible for arranging and paying directly for any utilities or services necessary for its activities hereunder.

**4.5 Damage.** Except as contemplated in the Work Plan and in such instance subject to Permittee's repair obligations in Section 12 below, Permittee shall not do anything about the Permit Area that will cause damage to any of City's property or the property of any other party with rights to occupy or use the Permit Area.

**5. TERM OF PERMIT.** The privilege given to Permittee pursuant to this Permit shall commence on the date following the Close of Escrow on which the Joint Work Schedule first indicates that Permittee requires access to the Permit Area (the "**Commencement Date**"), and shall expire on the date that the LDDA terminates (the "**Termination Date**").

## **6. INSURANCE.**

(a) Throughout the term of this Permit Permittee shall maintain insurance, and shall require Permittee's Agents using the Permit Area to maintain insurance, as required by the Ground Lease, and Permittee shall require Permittee's contractors to comply with the insurance requirements of the approved construction contract for the Project.

(b) Prior to entry onto the Permit Area pursuant to this Permit, Permittee shall deliver to City certificates of insurance and additional insured policy endorsements from insurers in a form reasonably satisfactory to City, evidencing the coverages required hereunder, taking into account the extent to which Permittee is permitted to self insure under the Ground Lease.

(c) Permittee's compliance with the provisions of this Section shall in no way relieve or decrease Permittee's indemnification obligations under this Permit or any of Permittee's other obligations hereunder. Permittee shall be responsible, at its expense, for separately insuring Permittee's personal property.

**7. COMPLIANCE WITH LAWS.** Permittee understands and agrees that City is entering into this Permit in its capacity as a property owner with a proprietary interest in the Permit Area and not as a regulatory agency with police powers. Permittee shall, at its expense, conduct all Permitted Activities undertaken by Permittee and its Agents on the Permit Area in a safe and prudent manner, in compliance with all laws applicable to Permittee and to the standards set forth in the LDDA for the relevant work. Permittee shall, at its expense, cause all contractors and subcontractors of any tier on the Project (collectively "Contractors") to conduct any Permitted Activities on the Permit Area in compliance with all laws applicable to such Contractors.

**8. HAZARDOUS MATERIALS.** From and after Permittee or Permittee's Agents' entry onto the Permit Area and continuing through the term of this Permit, Permittee shall comply with all Hazardous Materials Laws applicable to the performance of the Permitted Activities or other activity by Permittee or its Agents on the Permit Area in connection with the Project, and shall comply with the provisions of the LDDA with respect to Hazardous Materials (as applied to the Permit Area, to the extent applicable) including, without limitation, applicable provisions of Section 3.3 of the LDDA. Nothing contained herein shall be deemed to make Permittee responsible or liable for the mere discovery of any preexisting violation of Hazardous Materials Laws in, or, about, or under the Permit Area, it being acknowledged that the liability of the parties with respect thereto shall be as provided in the LDDA and the Ground Lease. Without limiting the indemnity in Section 16(a) below. Permittee shall indemnify, defend and hold the City Indemnified Parties (as defined in Section 16(a) below) harmless from and against any and all Claims (as defined in Section 16(a) below) resulting from any handling, release, or discharge of any Hazardous Material by Permittee or its Agents, on, in, under or about the Permit Area, any improvements permitted thereon, or into the environment; provided, however the foregoing obligation shall not apply with respect to any pre-existing Hazardous Material merely discovered by Permittee or its Agents except to the extent the same is exacerbated by Permittee or its Agents.

**9. COVENANT REGARDING PERMIT AREA.** In connection with its use hereunder, Permittee shall at all times, at its sole cost, perform all work permitted under this Permit in a safe and professional manner and not allow any dangerous or hazardous condition on the Permit Area created by Permittee or its Agents.

**10. SURRENDER.** Upon the expiration of this Permit, Permittee shall remove all loose building materials and debris present at the Permit Area resulting from any Permitted Activities of Permittee and shall vacate and surrender the Permit Area in a condition that is no worse than the condition of the Permit Area when delivered to Permittee, subject to normal wear and tear and except as provided by the LDDA and Work Plan (including the ZSFG Campus Improvements accepted by the City in accordance with the LDDA). At such time, Permittee shall remove all of its property from the Permit Area, including, without limitation, any signs installed by Permittee or Permittee's Agents, and shall repair, at its cost, any damage to the Permit Area caused by such removal. Permittee's obligations under this Section shall survive any termination of this Permit. Any equipment or any other property of Permittee remaining in the Permit Area after the Termination Date may be deemed abandoned by City in its sole discretion and City may store, remove, and dispose of such equipment or property at Permittee's sole cost and expense. Permittee waives all claims for any costs or damages resulting from City's retention, removal, and disposition of such property.

**11. WAIVER OF CLAIMS; WAIVER OF CONSEQUENTIAL AND INCIDENTAL DAMAGES.**

(a) Neither City nor any of its commissions, departments, boards, officers, agents or employees shall be liable for any damage to the property of Permittee, its officers, agents, employees, contractors or subcontractors, or their employees, or for any bodily injury or death to such persons, resulting or arising from the condition of the Permit Area or its use by Permittee, except to the extent that any such damage, injury or death is caused by the negligence or willful misconduct of City or any of its commissions, departments, boards, officers, agents or employees.

(b) Permittee acknowledges that it will not be a displaced person at the time this Permit is terminated or expires in accordance with its terms, and Permittee fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action against, and covenants not to sue, City, its departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, under any present or future laws, statutes, or regulations, including, without limitation, any and all claims for relocation benefits or assistance from City under federal and state relocation assistance laws.

In connection with the foregoing releases, the releases contained herein shall survive any termination of this Permit.

**12. REPAIR OF DAMAGE.** If any portion of the Permit Area or any property of City located on or about the Permit Area is damaged by Permittee or its Agents in the course of performing any of the Permitted Activities or any other actions by Permittee or its Agents at the Permit Area in connection with the Project, Permittee shall promptly, at its sole cost, repair any and all such damage. If Permittee fails to perform Permittee's repair obligations under this Section 12 within thirty (30) days after written notice from City of such failure (or such longer period as is reasonably required to complete such repair obligations so long as Permittee commences such repairs within the initial thirty (30) day period and at all times thereafter diligently pursues the same to completion), City may perform the necessary repairs at the expense of Permittee, and Permittee shall reimburse City for the cost thereof within ten (10) business days of receipt of written demand therefor, together with copies of all applicable invoices, receipts and other supporting documentation. Notwithstanding the foregoing, in the event that an emergency that poses and immediate and imminent threat to the health or safety of any person or a condition that impedes or materially impairs City's ability to provide critical services elsewhere on the ZSFG campus requires repairs be performed within a shorter period of time than that set forth above, City shall be required to provide only such prior notice, if any, as shall be reasonable under the circumstances in City's reasonable judgment. No such action by City shall be construed as a waiver of any rights or remedies of City under this Permit, and nothing herein shall imply any duty of City to do any act that Permittee is obligated to perform.

**13. SIGNS.** Permittee shall not place, erect or maintain any sign, advertisement, banner or similar object on or about the Permit Area, except for (i) construction signs (which may include informational signs identifying Permittee as the developer of the applicable improvements, provided that any such informational signage shall be subject to the approval of City, not to be unreasonably withheld, conditioned or delayed), and (ii) temporary safety and warning signs.

**14. DEFAULTS.**

(a) A party's failure to perform any material covenant or obligation of such party hereunder and to cure such non-performance within thirty (30) days of written notice thereof by the non-breaching party shall constitute a default hereunder, provided that if more than thirty (30) days are reasonably required for such cure, no event of default shall occur if the breaching party commences such cure within such initial thirty (30) day period and diligently prosecutes such cure to completion. Upon such event of default, the non-breaching party shall be entitled to all remedies and means to cure or correct such default, both legal and equitable, allowed by operation of law, provided City shall have no right to terminate this Permit unless City has terminated the LDDA in accordance with its provisions. Notwithstanding the foregoing, in the

event of an emergency which requires performance within a shorter period of time than that set forth above in order to circumvent an immediate and imminent threat to the health or safety of any person or substantial damage to property [or to correct a condition that interferes with City's ability to provide access to or delivery of healthcare], the non-breaching party shall be required to provide only such prior notice, if any, as shall be reasonable under the circumstances in the non-breaching party's reasonable judgment.

(b) In addition to City's rights under Section 12 above in connection with Permittee's failure to perform repair obligations under this Permit and under Section 14(a) above regarding Permittee's general failure to perform any other material covenant or obligation of Permittee hereunder, if Permittee fails to perform any of its material obligations under this Permit within thirty (30) days after written notice from City of such failure (or if such performance cannot reasonably be completed within such initial thirty (30) day period, such longer period as is reasonably required to complete such performance so long as Permittee commences such performance within the initial thirty (30) day period and at all times thereafter diligently pursues the same to completion), City may perform the applicable covenant or obligation at the expense of Permittee, and Permittee shall reimburse City for the cost thereof within ten (10) business days of receipt of written demand therefor, together with copies of all applicable invoices, receipts and other supporting documentation. Notwithstanding the foregoing, in the event that an emergency that poses an immediate and imminent threat to the health or safety of any person or a condition that impedes or materially impairs City's ability to provide critical services elsewhere on the ZSFG campus requires performance within a shorter period of time than that set forth above, City shall be required to provide only such prior notice, if any, as shall be reasonable under the circumstances in City's reasonable judgment. No such action by City shall be construed as a waiver of any rights or remedies of City under this Permit, and nothing herein shall imply any duty of City to do any act that Permittee is obligated to perform.

**15. NO COSTS TO CITY.** Permittee shall bear all costs or expenses of any kind or nature in connection with its use of the Permit Area and in complying with the conditions of this Permit, and shall keep the Permit Area free and clear of any liens or claims of lien arising out of or in any way connected with its use of the Permit Area. If any lien or claims of lien are filed against the Permit Area on account of any of the Permitted Activities performed by Permittee or its Agents, Permittee will proceed with diligence and within thirty (30) days of receipt of notice thereof cause such lien to be bonded or discharged.

**16. INDEMNITY.**

(a) Permittee shall indemnify, defend and hold City and its officers, directors, employees and agents (hereinafter collectively called "City Indemnified Parties") harmless from and against all liabilities, penalties, costs, damages, expenses, causes of action, claims or judgments (including, without limitation, reasonable attorneys fees) (collectively, "Indemnified Claims"), resulting from (i) any failure by Permittee in the observance or performance of any of the terms, covenants or conditions of this Permit, and/or (ii) any injury to or the death of any person (including without limitation any City Indemnified Party) or physical damage to property, real or personal, of any kind wherever located and by whomever owned (including, without limitation, property owned by a City Indemnified Party), in proportion to, and to the extent, such injury, death or physical damage arises out of or results from any of the Permitted Activities performed by Permittee or its Agents on or about the Permit Area or any other actions by Permittee or its Agents at the Permit Area in connection with the Project, except to the extent that any such Indemnified Claims are caused by the negligence or willful misconduct of City or any of the other City Indemnified Parties or by City's breach of its obligations under this Permit, the Ground Lease or the LDDA.

(b) City shall indemnify, defend and hold Permittee and its officers, directors, employees and agents (hereinafter collectively called "Permittee Indemnified Parties") harmless from and against all Indemnified Claims, resulting from (i) any failure by City in the observance

or performance of any of the terms, covenants or conditions of this Permit, and/or (ii) any injury to or the death of any person (including without limitation any Permittee Indemnified Party) or physical damage to property, real or personal, of any kind wherever located and by whomever owned (including, without limitation, property owned by a Permittee Indemnified Party), in proportion to and to the extent such injury, death or physical damage arises out of or results from the negligence, willful misconduct or other acts or omissions of City or any of the other City Indemnified Parties, except to the extent that any such Indemnified Claims are caused by the negligence or willful misconduct of Permittee or any of the other Permittee Indemnified Parties or by Permittee's breach of its obligations under this Permit, the Ground Lease or the LDDA.

(c) Each party shall give prompt notice to the other, at the address for notices set forth herein, with respect to any Indemnified Claims initiated or threatened against City or Permittee, which such party has reason to believe is likely to give rise to an obligation to indemnify, defend and hold harmless pursuant to Section 16(a) or Section 16(b) above and thereafter shall cooperate with the indemnifying party in the defense of such Indemnified Claims, provided however that the failure to give such notice shall not relieve the indemnifying party of its obligations hereunder except to the extent that such indemnifying party is materially prejudiced by such failure.

(d) Permittee shall, at its option but subject to the reasonable consent and approval of City, be entitled to control the defense, compromise or settlement of any matter for which Permittee is to provide defense hereunder through counsel of Permittee's own choice; provided, however, that in all cases City shall be entitled to participate in such defense, compromise, or settlement at its own expense. If Permittee shall fail, however, in City's reasonable judgment, within a reasonable time following notice from City alleging such failure, to take reasonable and appropriate action to defend, compromise or settle such suit or claim, City shall have the right promptly to use the City Attorney or hire outside counsel, at Permittee's sole expense, to carry out such defense, compromise, or settlement, which expense shall be due and payable to City twenty (20) business days after receipt by Permittee of an invoice therefor.

(e) City shall, at its option but subject to the reasonable consent and approval of Permittee, be entitled to control the defense, compromise, or settlement of any such matter for which City is to provide defense hereunder through counsel of City's own choice (including, without limitation, the City Attorney); provided, however, that in all cases Permittee shall be entitled to participate in such defense, compromise, or settlement at its own expense. If City shall fail, however, in Permittee's reasonable judgment, within a reasonable time following notice from Permittee alleging such failure, to take reasonable and appropriate action to defend, compromise, or settle such suit or claim, Permittee shall have the right promptly to hire outside counsel, at City's sole expense, to carry out such defense, compromise, or settlement, which expense shall be due and payable to Permittee twenty (20) business days after receipt by City of an invoice therefor.

(f) The provisions of this Section 16 shall survive the expiration or other termination of this Permit.

**17. "AS IS" CONDITION OF PERMIT AREA; DISCLAIMER OF REPRESENTATIONS.** Permittee accepts the Permit Area in its "AS IS" condition, without representation or warranty of any kind by City, its officers, agents or employees, including, without limitation, the suitability, safety, or duration of availability of the Permit Area or any facilities on the Permit Area for Permittee's use. Without limiting the foregoing, this Permit is made subject to all applicable laws, rules and ordinances governing the use of the Permit Area, and to any and all covenants, conditions, restrictions, easements, encumbrances, claims of title and other title matters affecting the Permit Area, whether foreseen or unforeseen, and whether such matters are of record or would be disclosed by an accurate inspection or survey. It is Permittee's sole obligation to conduct an independent investigation of the Permit Area and all matters relating to its use of the Permit Area hereunder, including, without limitation, the

suitability of the Permit Area for such uses. Permittee, at its own expense, shall obtain such permission or other approvals from any third parties with existing rights as may be necessary for Permittee to make use of the Permit Area in the manner contemplated hereby. City agrees to reasonably cooperate with Permittee, at no cost to City, to obtain such approvals.

**18. NO ASSIGNMENT.** This Permit shall not be assigned, conveyed or otherwise transferred by Permittee except in accordance with any concurrent permitted assignment of Permittee's right and obligations under the LDDA. Any attempt to assign, convey or otherwise transfer this Permit in violation of the foregoing shall be null and void.

**19. CESSATION OF USE.** Permittee will promptly notify City if it terminates its activities on the Permit Area pursuant hereto prior to the Termination Date.

**20. NO JOINT VENTURES OR PARTNERSHIP; NO AUTHORIZATION.** This Permit does not create a partnership or joint venture between City and Permittee as to any activity conducted by Permittee on, in or relating to the Permit Area. Permittee is not a State actor with respect to any activity conducted by Permittee on, in, or under the Permit Area. The giving of this Permit by City does not constitute authorization or approval by City of any activity conducted by Permittee on, in or relating to the Permit Area.

**21. MACBRIDE PRINCIPLES - NORTHERN IRELAND.** The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 *et seq.* The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Permittee acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

**22. NON-DISCRIMINATION.**

(a) **Permit Performance.** In the performance of this Permit, Permittee covenants and agrees that it will not discriminate against an applicant for employment because of race, color, religion, sex, age, ancestry, national origin, sexual orientation, handicap, veteran's status, medical condition (as defined in Section 12926 of the State of California Government Code), marital status, or citizenship (within the limits imposed by law or Permittee's policy) because of habit, local custom, or otherwise. All applicants for employment and employees are to be treated without regard to their race, color, religion, sex, age, ancestry, and national origin, sexual orientation, handicap, veteran's status, medical condition (as defined in Section 12926 of the State of California Government Code), marital status, or citizenship (within the limits imposed by law or Permittee's policy). Such equal treatment shall apply, but not be limited to, employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(b) **Other Contracts.** Permittee shall include in all sublicenses and other contracts relating to the Permit Area a nondiscrimination clause applicable to such subpermittee or other contractor in substantially the form of Subsection (a) above.

**23. [INTENTIONALLY OMITTED.]**

**24. RESTRICTIONS ON THE USE OF PESTICIDES.** Permittee shall comply and cause its contractor to comply with the pesticide prohibitions set forth in the LDDA.

**25. TROPICAL HARDWOOD BAN/VIRGIN REDWOOD BAN.** City urges companies not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product. Except as permitted



by City, Permittee shall not provide any items to the construction of the ZSFG Campus Improvements or otherwise in the performance of this Permit which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood products.

**26. TOBACCO PRODUCT ADVERTISING PROHIBITION.** Permittee acknowledges and agrees that no advertising of cigarettes or tobacco products shall be allowed on the Permit Area. The advertising prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This prohibition does not apply to any advertisement sponsored by a state, local or nonprofit entity designed to (a) communicate the health hazards of cigarettes and tobacco products, or (b) encourage people not to smoke or to stop smoking.

**27. PRESERVATIVE TREATED WOOD CONTAINING ARSENIC.** Permittee may not purchase preservative-treated wood products containing arsenic in the performance of this Permit. The term “preservative-treated wood containing arsenic” shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Permittee may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by City’s Department of the Environment. This provision does not preclude Permittee from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term “saltwater immersion” shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

**28. CONFLICTS OF INTEREST.** Through its execution of this Permit, Permittee acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City’s Campaign and Governmental Conduct Code, and Sections 87100 *et seq.* and Sections 1090 *et seq.* of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of said provision, and agrees that if Permittee becomes aware of any such fact during the term of this Permit, Permittee shall promptly notify the City.

**29. NOTICES.** Except as otherwise expressly provided herein, any notices given under this Permit shall be effective only if in writing and given by delivering the notice in person, by sending it first class mail or certified mail, with a return receipt requested, or overnight courier, return receipt requested, with postage prepaid, addressed as follows:

City: City and County of San Francisco  
Department of Public Health  
c/o Real Estate Division  
25 Van Ness, Suite 400  
San Francisco, California 94102  
Attn: Director of Property

Permittee: The Regents of the University of California  
Real Estate Contract Services  
654 Minnesota Street, Second Floor  
San Francisco, CA 94143  
Attn: Executive Director

Notices herein shall be deemed given two (2) days after the date when it shall have been mailed if sent by first class, certified or overnight courier, or upon the date personal delivery is made.

**30. [INTENTIONALLY OMITTED.]**

**31. [INTENTIONALLY OMITTED.]**

**32. COUNTERPARTS.** This Permit may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

**33. GENERAL PROVISIONS.** (a) This Permit may be amended or modified only by a writing signed by City and Permittee. (b) No waiver by any party of any of the provisions of this Permit shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. (c) All approvals and determinations of City requested, required or permitted hereunder may be made by the City's Director of Property or other authorized City official. (d) This Permit (including the exhibit(s) hereto), together with the LDDA and the Ground Lease, contains the entire agreement between the parties with respect to the matters set forth herein and all prior written or oral negotiations, discussions, understandings and agreements are merged herein. (e) The section and other headings of this Permit are for convenience of reference only and shall be disregarded in the interpretation of this Permit. (f) Time is of the essence. (g) This Permit shall be governed by California law and, with respect to the City's obligations, the City's Charter, and with respect to Permittee's obligations, laws applicable to Permittee. (h) If either party commences an action against the other or a dispute arises under this Permit, the prevailing party shall be entitled to recover from the other reasonable attorneys' fees and costs. For purposes hereof, reasonable attorneys' fees of City and Permittee shall be based on the fees regularly charged by private attorneys in San Francisco with comparable experience to, as applicable, the attorneys of the Office of City Attorney or any in-house counsel of Permittee engaged in the relevant matter. (i) Permittee may not record this Permit or any memorandum hereof. (j) Subject to the prohibition against assignments or other transfers by Permittee hereunder, this Permit shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives, successors and assigns.

[No further text this page.]

Permittee represents and warrants to City that it has read and understands the contents of this Permit and agrees to comply with and be bound by all of its provisions.

PERMITTEE:

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED AS TO FORM FOR PERMITTEE:

By: \_\_\_\_\_

University Counsel

CITY:

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

By: \_\_\_\_\_  
JOHN UPDIKE, Director of Property  
Date: \_\_\_\_\_

RECOMMENDED BY:

\_\_\_\_\_  
BARBARA GARCIA, Director of Public Health

APPROVED AS TO FORM FOR CITY:

DENNIS J. HERRERA, City Attorney

By: \_\_\_\_\_  
(Name): \_\_\_\_\_  
Deputy City Attorney

**EXHIBIT A**

**Depiction of Permit Area  
[Attached]**

**EXHIBIT B**

**Work Plan**