

LEASE AGREEMENT

This Lease Agreement ("Agreement") is dated _____ and is between Apotek Moderna LLC, a California Limited Liability Company ("Lessor"), and the County of Fresno, a political subdivision of the State of California ("Lessee").

Article 1

Leased Premises

1.1 Leased Premises. The Lessor hereby leases to the Lessee the office space at the location commonly known as 1399 Draper Street, Kingsburg, CA 93631, Assessor Parcel Number 396-064-15 (the "Premises"). The Lessor represents that the Premises consist of approximately 5,800 square feet, including 5,000 square feet of office space ("Main Floor") and 800 square feet of basement storage space ("Storage") as shown in Exhibit "A", which is incorporated by this reference.

1.2 Covenants. The Lessor covenants that the Premises are in compliance with all applicable laws, ordinances and regulations, including but not limited to safety regulations, health and building codes, including, without limitation, the Americans with Disabilities Act and that the Premises shall remain in such compliance throughout the term of this Agreement.

1.3 Compliance with Laws. The Lessor shall, at its own cost, comply with all applicable federal, state, and local laws and regulations in the performance of its obligations under this Agreement, including but not limited to workers compensation, labor, and confidentiality laws and regulations.

It is Lessor's sole responsibility to ensure compliance with California Labor Code §1770-1780 and any regulations or directions promulgated thereunder by the Department of Industrial Relations (DIR) to the extent legally applicable to said work. To the extent legally applicable to said work, Lessor shall insert in any contract with its contractor(s) and further shall require its contractor(s) to insert in any subcontract, the requirements contained in California Labor Code §1770-1780. Lessee has made no representations upon which Lessor has relied, and under no circumstances shall Lessee be responsible

1 for any violation of any wage or employment law, regulation of DIR requirement.
2 Compliance with said laws, regulations and DIR requirements is the sole responsibility of
3 Lessor and its contractor(s).

4 **Article 2**

5 **Lessee's Responsibilities**

6 **2.1** The Lessee shall use the Premises as office space for its Library Department,
7 or for any County of Fresno department, office, or agency. The Lessee agrees to comply
8 with applicable laws, ordinances and regulations in connection with such use.

9 **Article 3**

10 **Rent, Invoices, and Payments**

11 **3.1** The Lessee agrees to pay, and the Lessor agrees to receive, rent for the use of
12 its Premises under this Agreement and as described in Exhibit B to this Agreement,
13 entitled "Rent Schedule."

14 **3.2 Maximum Rent.** The maximum Rent payable to the Lessor under this
15 Agreement is \$656,261.04, pursuant to the Rent Schedule referred to in Section 3.1. The
16 Lessor acknowledges that the Lessee is a local government entity and does so with notice
17 that the Lessee's powers are limited by the California Constitution and by State law, and
18 with notice that the Lessor may receive rent according to the terms of this Agreement and
19 while this Agreement is in effect, and subject to the maximum amount payable under this
20 section. The Lessor further acknowledges that Lessee employees have no authority to pay
21 the Lessor except as expressly provided in this Agreement.

22 **3.3 Payment.** The Lessee shall pay rent for each month on the first day of each
23 month.

24 **3.4 Incidental Expenses.** The Lessor is solely responsible for all of its costs and
25 expenses that are not specified as payable by the Lessee under this Agreement.

26 **3.5 Utilities.** The Lessor shall pay those metered costs for natural gas, electricity,
27 water, garbage, and sewer services associated with Lessee's use of the Premises. Lessee

1 shall pay all costs associated with its use of any telecommunications, cable, internet, and
2 security services that Lessee requires in its use of the Premises.

3 **Article 4**

4 **4.1 Tenant Improvements.**

5 (A) Lessor shall use commercially reasonable efforts to ensure that those certain
6 tenant improvements (the preliminary description of which are detailed in Exhibit E
7 entitled "Tenant Improvements Scope of Work," attached and incorporated by this
8 reference and in accordance with and subject to the terms and conditions of, the
9 provisions of this Section 4.1 ("Tenant Improvements"); provided, however, that the total
10 cost of all such Tenant Improvements in the aggregate shall not exceed the sum of
11 \$350,000.00 (the "TI Budget").

12 (B) All Tenant Improvements listed in Exhibit E shall be completed by June 30, 2026.
13 All improvements to the interior of the Premises shall be performed during times when
14 the Premises are closed to staff and the public.

15 (C) All drawings, plans, and specifications for Tenant Improvements and any
16 modifications to said Tenant Improvements must be approved in writing by both Lessor
17 and Lessee, in accordance with this Section 4.1.

18 (D) As used herein, "TI Costs" shall mean all hard and soft costs of Tenant
19 Improvements incurred by Lessor in connection with any Tenant Improvements and as
20 agreed to by Lessee.

21 (E) Lessor shall construct Tenant Improvements based on plans approved by the
22 Fresno County Library regarding the spaces within the Building subject to the Tenant
23 Improvements, in accordance with the procedures set forth in this Section 4.1. Lessor
24 and Lessee agree that final approved (in writing by both the Lessor and Lessee's
25 Librarian, or their respective designees) Working Drawings (as defined herein) for the
26 Tenant Improvements shall be in place prior to the commencement of construction of the
27 applicable Tenant Improvements. Any modifications to the Working Drawings shall be
28 approved in writing by both the Lessor and Lessee's Librarian, or their respective

authorized designees, prior to commencement of construction of such modifications, which approval shall not be unreasonably withheld or delayed. Should modifications to the Working Drawings requested by Lessee's Librarian delay the completion of the Tenant Improvements or cause any increase in the cost of the Tenant Improvements that exceed the TI Budget, then Lessee shall be responsible for the cost associated with those modifications. Lessor shall provide all labor, material, and equipment for the completion of any Tenant Improvements in accordance with this Section 4.1 and the Working Drawings, subject to Lessor's Rent obligations hereunder.

(F) Working Drawings. Lessor shall, with Lessee's cooperation, cause the preparation of working construction drawings for the applicable Tenant Improvements (the "Working Drawings"). Each party shall promptly communicate to the other party any disapproval or objection to the Working Drawings, or drafts thereof, in reasonable detail. Lessor and Lessee shall use commercially reasonable efforts to promptly finalize and jointly approve such Working Drawings.

(G) Cost of Work. Lessor and Lessee shall use commercially reasonable efforts to promptly finalize and jointly approve such TI Costs and any revisions to the Working Drawings necessary to achieve a mutually acceptable TI Costs budget. Notwithstanding the foregoing or anything to the contrary contained in this Section 4.1, in no event shall the aggregate TI Costs for all phases of Tenant Improvements hereunder exceed the total TI Budget of \$350,000.00, unless the parties mutually agree in writing, through an amendment to this Agreement, in their respective sole and absolute discretion, to increase the TI Budget or otherwise to provide for the payment of the excess TI Costs.

(H) Approval. Both the final Working Drawings and the TI Costs' budget for such work shall be subject to approval by both parties. Lessee shall evidence its approval of final Working Drawings, and the TI Costs associated therewith by giving written notice thereof to Lessor ("Notice to Proceed"), and such approval shall be irrevocable and unconditional. Upon receiving such Notice to Proceed, Lessor shall proceed to

1 commence and diligently pursue the construction and completion of the approved
2 Tenant Improvements in a good and workmanlike manner.

3 (I) Change Orders and/or Cost Increases. Any actual increase in TI Costs for
4 Tenant Improvements resulting from any of the following events or conditions shall be
5 added to the applicable TI Costs budget for the Tenant Improvements and included in
6 the calculation of the amortized Tenant Improvements plus the Rent.

7 (1) Any changes requested by Lessee in writing to the Tenant Improvements
8 described in Working Drawings covered by a Notice to Proceed (each, a "Change
9 Order"), which in any event shall be subject to Lessor's reasonable approval;

10 (2) Any event of Force Majeure, including acts of God, strikes, lockouts,
11 accidents, war, acts of terrorism (whether local, national or global in nature). Lessor
12 shall promptly inform Lessee of the occurrence of any such Force Majeure and the
13 reasonably anticipated and increased costs and expenses, to the extent then known,
14 and Lessor shall cooperate with Lessee to reduce or otherwise minimize any
15 resulting increase in TI Costs; and

16 (3) Any delay caused by any act, omission, negligence, misconduct, failure to act
17 or failure to timely respond by Lessee.

18 (J) Substantial Completion; Walk-Through; Punchlist. When Lessor considers the
19 applicable Tenant Improvements to be substantially completed, Lessor shall notify
20 Lessee (a "Substantial Completion Notice") and promptly thereafter, Lessor and Lessee
21 shall conduct a walk-through of the Premises and identify any necessary punch list items
22 that are necessary for final completion of the Work. Lessee's failure to object in writing or
23 provide a punch list within ten (10) days after receipt of a Substantial Completion Notice,
24 or Lessee's occupancy of the applicable portion of the Premises, shall be deemed
25 Lessee's agreement that the applicable Tenant Improvements are completed.

26 (K) Prevailing Wage. In addition to the provisions of Section 1.3 (Compliance with
27 Laws) hereof, Lessor, including all of its officers, agents, and employees, at its sole cost
28 and expense, shall comply with, and shall ensure compliance by all of Lessor's suppliers

1 and contractors and their subcontractors at any tier with, all applicable laws and
2 regulations with respect to all of Lessor's work related to the Premises throughout the
3 Term (as defined in Section 5.1 hereof) (including, by way of example of such work, and
4 not as a limitation of such work, the maintenance work to be performed under Article 13
5 hereof in connection with the Premises), including the payment of prevailing wages,
6 pursuant to California Labor Code § 1770.

7 (L) TI Rent. In consideration of the TI Costs incurred by Lessor in connection with
8 this Section 4.1, Lessee shall pay Additional Rent to Lessor, which shall be paid by
9 LESSEE in accordance with the following provisions ("TI Rent"):

10 (1) The amount of the cost for each completed separate Tenant Improvement as
11 listed on the schedule in Exhibit E, attached and incorporated by this reference
12 (whether a Tenant Improvement has been completed shall be determined in
13 accordance with this Section 4.1).

14 (2) Each TI Rent Increment shall become Additional Rent; The monthly TI Rent
15 Increment amount for each Task TI Cost shall be due and payable as TI Rent
16 commencing on the first day of the month following the Amortization Date, and
17 continuing through, and including, the final day of the initial term, as identified in
18 Article 5 hereof.

19 Article 5

20 Term of Agreement

21 **5.1 Term.** This Agreement is effective on January 1, 2026 (the "Rent
22 Commencement Date"), and terminates on December 31, 2027, except as provided in
23 section 5.2, "Extension," or Article 8, "Termination and Suspension," below.

24 **5.2 Extension.** The term of this Agreement may be extended for no more than one
25 (1), one-year period only upon written approval of both parties at least 60 days before the
26 first day of the next one-year extension period. The Director of General Services, or their
27 designee, is authorized to sign the written approval on behalf of the Lessee based on
28 Lessor's satisfactory performance. The extension of this Agreement by the Lessee is not a

1 waiver or compromise of any default or breach of this Agreement by the Lessor existing at
2 the time of the extension whether or not known to the Lessee.

3 **Article 6**

4 **Rent**

5 **6.1** Lessee's obligation to pay rents and any other amounts due under the
6 Agreement shall commence on the Rent Commencement Date, as defined herein, and
7 shall be subject to Lessee's constitutional debt limitation (Article XVI, Section 19 of the
8 Californian Constitution). Effective upon the Rent Commencement Date, as defined
9 herein, and throughout the Term, Lessee shall pay to Lessor without offset, demand of
10 prior notice, rent for the Premises on or before the first of each month Rent, according to
11 the schedule set forth on Exhibit "B", which is attached and incorporated by this reference.

12 **6.2** The Rent Commencement Date shall be the date that Lessor has delivered
13 possession of the Premises to Lessee, after Substantial Completion of the Tenant
14 Improvements to the Premises, as defined in Article 4 hereof, and such delivery has been
15 accepted in writing by Lessee, by Lessee's signing Lessor's written notification.
16 "Substantial Completion" is defined as the completion of Tenant Improvements according
17 to the schedule set forth on Exhibit "E". Lessor's written notification shall confirm the Rent
18 Commencement Date, which shall be the first of the month following the completion of
19 Tenant Improvements, and shall become an exhibit to this Agreement ("Rent Commence-
20 Date"). As to Lessee, the Director of General Services, or a designee of one of them, is
21 hereby authorized to execute said notification of completion confirming the Rent
22 Commencement Date.

23 **Article 7**

24 **Notices**

25 **7.1 Contact Information.** The persons and their addresses having authority to
26 give and receive notices provided for or permitted under this Agreement include the
27 following:

For the Lessee:

For the Lessor:

L-025
County of Fresno
Kingsburg Library

County of Fresno
Director of General Services
333 W. Pontiac Way
Clovis, CA 93612
GSDContracts@fresnocountyca.gov

Clinton J. Brock
1515 Draper Street
Kingsburg, CA 93631
clinton@deftsf.com

1 **7.2 Change of Contact Information.** Either party may change the information in
2 section 7.1 by giving notice as provided in section 7.3.

3 **7.3 Method of Delivery.** Each notice between the Lessee and the Lessor provided
4 for or permitted under this Agreement must be in writing, state that it is a notice provided
5 under this Agreement, and be delivered either by personal service, by first-class United
6 States mail, by an overnight commercial courier service, or by Portable Document Format
7 (PDF) document attached to an email.

8 (A) A notice delivered by personal service is effective upon service to the recipient.

9 (B) A notice delivered by first-class United States mail is effective three Lessee
10 business days after deposit in the United States mail, postage prepaid, addressed to the
11 recipient.

12 (C) A notice delivered by an overnight commercial courier service is effective one
13 Lessee business day after deposit with the overnight commercial courier service,
14 delivery fees prepaid, with delivery instructions given for next day delivery, addressed to
15 the recipient.

16 (D) A notice delivered by PDF document attached to an email is effective when
17 transmission to the recipient is completed (but, if such transmission is completed outside
18 of Lessee business hours, then such delivery is deemed to be effective at the next
19 beginning of a Lessee business day), provided that the sender maintains a machine
20 record of the completed transmission.

21 **7.4 Claims Presentation.** For all claims arising from or related to this Agreement,
22 nothing in this Agreement establishes, waives, or modifies any claims presentation
23 requirements or procedures provided by law, including the Government Claims Act
24 (Division 3.6 of Title 1 of the Government Code, beginning with section 810).

Article 8

Termination and Suspension

8.1 Termination for Non-Allocation of Funds. The terms of this Agreement are contingent on the approval of funds by the appropriating government agency. If sufficient funds are not allocated, then the Lessee, upon at least 30 days' advance written notice to the Lessor, may:

- (A) Modify the services provided by the Lessor under this Agreement; or
- (B) Terminate this Agreement.

8.2 Termination for Breach.

(A) Upon determining that a breach (as defined in paragraph (C) below) has occurred, the Lessee may give written notice of the breach to the Lessor. The written notice may suspend performance under this Agreement, and must provide at least 30 days for the Lessor to cure the breach.

(B) If the Lessor fails to cure the breach to the Lessee's satisfaction within the time stated in the written notice, the Lessee may terminate this Agreement immediately.

(C) For purposes of this section, a breach occurs when, in the determination of the Lessee, the Lessor has:

- (1) Obtained or used funds illegally or improperly;
- (2) Failed to comply with any part of this Agreement;
- (3) Submitted a substantially incorrect or incomplete report to the Lessee; or
- (4) Improperly performed any of its obligations under this Agreement.

8.3 Termination without Cause. In circumstances other than those set forth above, the Lessee may terminate this Agreement by giving at least 30 days advance written notice to the Lessor.

8.4 No Penalty or Further Obligation. Any termination of this Agreement by the Lessee under this Article 8 is without penalty to or further obligation of the Lessee.

8.5 Lessee's Rights upon Termination. Upon termination for breach under this Article 8, the Lessee may demand repayment by the Lessor of any monies disbursed to

1 the Lessor under this Agreement that, in the Lessee's sole judgment, were not expended
2 in compliance with this Agreement. The Lessor shall promptly refund all such monies upon
3 demand. This section survives the termination of this Agreement.

4 **Article 9**

5 **Indemnity and Defense**

6 **9.1 Indemnity.** The Lessor shall indemnify and hold harmless and defend the
7 Lessee (including its officers, agents, employees, and volunteers) against all claims,
8 demands, injuries, damages, costs, expenses (including attorney fees and costs), fines,
9 penalties, and liabilities of any kind to the Lessee, the Lessor, or any third party that arise
10 from or relate to the performance or failure to perform by the Lessor (or any of its officers,
11 agents, subcontractors, or employees) under this Agreement. The Lessee may conduct or
12 participate in its own defense without affecting the Lessor's obligation to indemnify and
13 hold harmless or defend the Lessee.

14 **9.2 Survival.** This Article 9 survives the termination of this Agreement.

15 **Article 10**

16 **Independent Lessor**

17 **10.1 Status.** In performing under this Agreement, the Lessor, including its officers,
18 agents, employees, and volunteers, is at all times acting and performing as an
19 independent Lessor, in an independent capacity, and not as an officer, agent, servant,
20 employee, joint venturer, partner, or associate of the Lessee.

21 **10.2 Verifying Performance.** The Lessee has no right to control, supervise, or
22 direct the manner or method of the Lessor's performance under this Agreement, but the
23 Lessee may verify that the Lessor is performing according to the terms of this Agreement.

24 **10.3 Benefits.** Because of its status as an independent contractor, the Lessor has
25 no right to employment rights or benefits available to Lessee employees. The Lessor is
26 solely responsible for providing to its own employees all employee benefits required by
27 law. The Lessor shall save the Lessee harmless from all matters relating to the payment of

Lessor's employees, including compliance with Social Security withholding and all related regulations.

10.4 Services to Others. The parties acknowledge that, during the term of this Agreement, the Lessor may provide services to others unrelated to the Lessee.

Article 11

Insurance

11.1 The Lessor shall comply with all the insurance requirements in Exhibit D to this Agreement.

Article 12

Inspections, Audits, and Public Records

12.1 Inspection of Documents. The Lessor shall make available to the Lessee, and the Lessee may examine at any time during business hours and as often as the Lessee deems necessary, all of the Lessor's records and data with respect to the matters covered by this Agreement, excluding attorney-client privileged communications. The Lessor shall, upon request by the Lessee, permit the Lessee to audit and inspect all of such records and data to ensure the Lessor's compliance with the terms of this Agreement.

12.2 State Audit Requirements. If the compensation to be paid by the Lessee under this Agreement exceeds \$10,000, the Lessor is subject to the examination and audit of the California State Auditor, as provided in Government Code section 8546.7, for a period of three years after final payment under this Agreement. This section survives the termination of this Agreement.

12.3 Public Records. The Lessee is not limited in any manner with respect to its public disclosure of this Agreement or any record or data that the Lessor may provide to the Lessee. The Lessee's public disclosure of this Agreement or any record or data that the Lessor may provide to the Lessee may include but is not limited to the following:

(A) The Lessee may voluntarily, or upon request by any member of the public or governmental agency, disclose this Agreement to the public or such governmental agency.

(B) The Lessee may voluntarily, or upon request by any member of the public or governmental agency, disclose to the public or such governmental agency any record or data that the Lessor may provide to the Lessee, unless such disclosure is prohibited by court order.

(C) This Agreement, and any record or data that the Lessor may provide to the Lessee, is subject to public disclosure under the Ralph M. Brown Act (California Government Code, Title 5, Division 2, Part 1, Chapter 9, beginning with section 54950).

(D) This Agreement, and any record or data that the Lessor may provide to the Lessee, is subject to public disclosure as a public record under the California Public Records Act (California Government Code, Title 1, Division 10, Chapter 3, beginning with section 7920.200) ("CPRA").

(E) This Agreement, and any record or data that the Lessor may provide to the Lessee, is subject to public disclosure as information concerning the conduct of the people's business of the State of California under California Constitution, Article 1, section 3, subdivision (b).

(F) Any marking of confidentiality or restricted access upon or otherwise made with respect to any record or data that the Lessor may provide to the Lessee shall be disregarded and have no effect on the Lessee's right or duty to disclose to the public or governmental agency any such record or data.

12.4 Public Records Act Requests. If the Lessee receives a written or oral request under the CPRA to publicly disclose any record that is in the Lessor's possession or control, and which the Lessee has a right, under any provision of this Agreement or applicable law, to possess or control, then the Lessee may demand, in writing, that the Lessor deliver to the Lessee, for purposes of public disclosure, the requested records that may be in the possession or control of the Lessor. Within five business days after the

Lessee's demand, the Lessor shall (a) deliver to the Lessee all of the requested records that are in the Lessor's possession or control, together with a written statement that the Lessor, after conducting a diligent search, has produced all requested records that are in the Lessor's possession or control, or (b) provide to the Lessee a written statement that the Lessor, after conducting a diligent search, does not possess or control any of the requested records. The Lessor shall cooperate with the Lessee with respect to any Lessee demand for such records. If the Lessor wishes to assert that any specific record or data is exempt from disclosure under the CPRA or other applicable law, it must deliver the record or data to the Lessee and assert the exemption by citation to specific legal authority within the written statement that it provides to the Lessee under this section. The Lessor's assertion of any exemption from disclosure is not binding on the Lessee, but the Lessee will give at least 10 days' advance written notice to the Lessor before disclosing any record subject to the Lessor's assertion of exemption from disclosure. The Lessor shall indemnify the Lessee for any court-ordered award of costs or attorney's fees under the CPRA that results from the Lessor's delay, claim of exemption, failure to produce any such records, or failure to cooperate with the Lessee with respect to any Lessee demand for any such records.

Article 13

Disclosure of Self-Dealing Transactions

13.1 Applicability. This Article 13 applies if Lessor is operating as a corporation or changes its status to operate as a corporation.

13.2 Duty to Disclose. If any member of the Lessor's board of directors is party to a self-dealing transaction, he or she shall disclose the transaction by completing and signing a "Self-Dealing Transaction Disclosure Form" (Exhibit C to this Agreement) and submitting it to the Lessee before commencing the transaction or immediately after.

13.3 Definition. “Self-dealing transaction” means a transaction to which the Lessor is a party and in which one or more of its directors, as an individual, has a material financial interest.

Article 14

General Terms

14.1 Parcel Split and APN Requirement. Lessor shall, at Lessor's sole cost and expense, complete all necessary actions to subdivide the Premises so that the Premises is assigned a single, independent Assessor's Parcel Number ("APN"). Lessor shall diligently pursue the parcel split through the applicable governmental agencies and shall obtain all required approvals, certificates, and recorded documents. Lessor shall provide Lessee with reasonable updates regarding the status of this process and evidence of the completed parcel split and the issuance of the new APN within 30 days of approval. Completion of the Parcel Split shall be no later than December 30, 2026.

14.2 Maintenance. The Lessor shall be responsible for the structural condition of the Premises and for all exterior and interior maintenance, including, but not limited to, the air conditioning, including replacing interior air conditioning filters, heating, electrical, windows, plumbing, roof, floor coverings, painting and graffiti removal, fire/life-safety systems including, but not limited to, fire suppression systems and alarms and smoke/fire alarm systems, landscaping, and parking lot, and parking lot lighting. The Lessor covenants that the Premises shall be maintained in substantially the same condition as that existing at the commencement of this Agreement. In addition, Lessor shall be responsible to maintain and replace the linoleum floor as needed and shall strip and wax the Main Floor one (1) time per year.

Lessor covenants that the Premises shall be reasonably quiet, so that it is usable as an office space, and any excessive noise caused by Lessor, Lessor's agents or employees, or other tenants of Lessor must be remedied by Lessor.

Lessee shall be responsible for interior maintenance, to include interior plumbing clogs, painting, replacement of light bulbs, janitorial services, and paper supplies.

14.3 Signage. Lessee at its sole cost, shall have the right to install or place signs, or other advertising material in or about the Premises or the building and may remove them,

1 provided that the Lessee obtains Lessor's consent for exterior signs. This consent shall
2 not be unreasonably withheld, conditioned, or delayed provided that all signage complies
3 with Lessor's sign criteria and that signs are in compliance with applicable laws and
4 regulations

5 **14.4 Breach of Obligation to Maintain.** In the event the Lessor breaches its
6 obligation to maintain the Premises as herein provided, the Lessee may give written notice
7 to the Lessor within 15 days of the discovery of such breach. The Lessor shall then have
8 30 days from the date of notice to cure its breach. If the period for cure expires and if, in
9 the Lessees' reasonable determination, the Lessor has failed to cure, then the Lessee
10 may, at their election:

11 (A) Terminate this Agreement as herein after provided. In such case, the Lessee
12 shall have the right to demand the Lessor refund any monies which, in the judgement of
13 the Lessee, were paid to the Lessor pursuant to the Agreement but which were not
14 earned by the Lessor by consequence of its breach. Upon receipt of such demand, the
15 Lessor shall promptly refund all such monies; or

16 (B) Cure the Lessor's breach and deduct the cost of such cure, together with
17 reasonable administrative costs, from the Lessees' future rent obligation. The Lessee's
18 decision to cure the Lessor's breach shall not constitute a waiver of any rights or
19 remedies that Lessee may have arising from this Agreement or by operation of law.

20 **14.5 Destruction or Damage from Casualty.** If the Premises are damaged or
21 destroyed as a result of fire, earthquake, act of God, or any other identifiable event of a
22 sudden, unexpected, or unusual nature (hereinafter "Casualty"), then the Lessor shall
23 either promptly and diligently repair the damage at its own cost, or terminate the
24 Agreement as hereinafter provided.

25 (A) If the Lessor elects to repair the Casualty damage to the Premises, then it shall
26 within 30 days after the date of Casualty provide written notice (hereinafter "Notice of
27 Repair") to the Lessee indicating the anticipated time required to repair. The Lessor shall
28 bear the cost of all repairs to the Premises, including the cost to repair any alteration or

1 fixtures installed or attached thereto by the Lessee. Such repairs shall restore the
2 Premises to substantially the same condition as the existing at the commencement of
3 this Agreement and shall be made in compliance with all applicable state and local
4 building codes. The Lessor shall not be liable to the Lessee for compensation for any
5 loss of business, or any inconvenience or annoyance arising from repair of the Premises
6 as a result of the Casualty except for rent reduction as hereinafter provided. The Lessee
7 shall be responsible at its sole cost and expense for the replacement of its personal
8 property.

9 (B) The Lessor may only elect to terminate the Agreement due to Casualty if: the
10 Premises have been destroyed or substantially destroyed by said Casualty; and the
11 estimated time to repair the Premises exceeds 240 days from the date of the Casualty.
12 The Lessor shall provide the Lessee with written notice of its election to terminate within
13 30 days after the date of Casualty.

14 (C) In the event of Casualty, the Lessee's obligation to pay rent shall be reduced
15 beginning on the date of the Casualty. Such reduction shall be proportional to the
16 damage caused to the Premises by the Casualty as determined by the Lessee. If the
17 Lessor elects to repair the Premises pursuant to the terms of this Agreement, then the
18 rent reduction shall continue until the date of the local governing body issuing a safe to
19 stock certificate for the Premises.

20 (D) If the Lessee does not receive a Notice of Repair from Lessor within 30 days
21 after a Casualty, or if the anticipated period of repair contained in the Notice of Repair
22 exceeds 240 days, then the Lessee may elect to terminate this Agreement as hereinafter
23 provided. In such case, the Lessee shall have the right to demand that the Lessor refund
24 any monies which, in the judgment of the Lessee, were paid to the Lessor pursuant to
25 the Agreement but which were not earned by the Lessor by consequence of the
26 Casualty. Upon receipt of such demand, the Lessor shall promptly refund all such
27 monies.

1 **14.6 Surrender of Possession.** Upon the expiration or termination of this
2 Agreement, the Lessee will surrender the Premises to Lessor in such condition as that
3 existing at the commencement of this Agreement, less reasonable wear and tear, less the
4 effects of any Casualty as herein defined, and less the effects of any breach of the
5 Lessor's covenant to maintain. The Lessee will not be responsible for any damage with the
6 Lessee is not obligated here under to repair.

7 **14.7 Fixtures.** The Lessor agrees that any equipment, fixtures or apparatus
8 installed in or on the Premises by the Lessor shall continue to be the property of that
9 governmental entity and may be removed by that governmental entity at any time. The
10 respective governmental entity shall repair damage caused by the removal of its fixtures.
11 Any fixtures not removed with the Lessee surrender possession shall become the property
12 of the Lessor.

13 **14.8 Right of Entry.** The Lessor, or its representative(s), upon twenty-four (24) hour
14 notice, shall have the right to enter the Premises at any time during business hours, or at
15 such other time as the Lessee deems appropriate, to make any alterations, repairs or
16 improvements to the Premises. The normal business of the Lessee or its invitees shall not
17 be unnecessarily inconvenienced. In the event of an emergency, the Lessor may enter the
18 Premises at any time without giving prior notice to the Lessee.

19 **14.9 Estoppel Certificate.** Lessee shall, at any time upon not less than sixty (60)
20 days' prior written request by Lessor, execute, acknowledge and deliver to Lessor a
21 written estoppel certificate, in a form reasonably satisfactory to Lessor, certifying that this
22 Lease is unmodified and in full force and effect (or, if there have been modifications, that
23 the same is in full force and effect as modified and stating the modifications) and, if
24 applicable, the dates to which the monthly rent and any other charges have been paid in
25 advance. Any such statement delivered pursuant to this Section 14.9 may be relied upon
26 by third persons, including a prospective purchaser or encumbrancer of the Premises.

27 **14.10 Subordination, Non-Disturbance, and Attornment.** If after the Effective
28 Date, Lessor desires to obtain a loan from a bank (the "Bank") and thereby encumber

1 the Premises with a deed of trust {"Deed of Trust"}, the Parties agree, and Lessor shall
2 cause the Bank, as beneficiary of the Deed of trust, to agree, to enter into a
3 Subordination, Non-Disturbance, and Attornment Agreement ("SNDA") in form and
4 substance reasonably acceptable to Lessee, Lessor, and the Bank. The agreed-upon
5 SNDA shall include the following terms, generally outlined below, which outline not an
6 exhaustive list of terms, or the specific terms, for the agreed-upon SNDA:

7 (A) This Lessee shall subordinate the priority of this Lease to the Deed of Trust;
8 (B) In the event of a foreclosure of the Deed of Trust, or a transfer of the Real
9 Property in lieu thereof or in any other manner whereby Bank or its successors-in-
10 interest succeed to the interest of Lessor under this Lease, so long as there shall then
11 exist no breach or event of default by Lessee under this Lease which has continued to
12 exist for such period of time (after notice, if any, required by this Lease) as would
13 entitle Lessor to terminate this Lease: (a) this Lease, including the leasehold interest
14 of Lessee hereunder shall not be disturbed or otherwise adversely affected by reason
15 of such foreclosure or transfer of the Real Property in lieu thereof or in any other
16 manner; (b) other than as set forth in the SNDA, none of Lessee's rights and interest
17 under this Lease, shall be affected in any way by reason of any default under the
18 Deed of Trust, and this Lease shall continue in full force and effect; (c) Bank and its
19 successors-in-interest shall recognize and accept Lessee as the lessee under this
20 Lease, subject to the terms and conditions of this Lease as modified by the SNDA;
21 (d) the Bank and its successors-in-interest as lessor under this Lease, shall have all
22 of the rights and obligations of Lessor under this Lease (provided that neither Bank
23 nor such successors-in-interest shall be liable for any act or omission of Lessor as the
24 prior lessor under this Lease, except that Lessee shall be entitled to exercise all of its
25 rights and remedies under this Lease with respect to continuing defaults hereunder
26 resulting from the acts or omissions of Lessor arising after Bank, or its successor-in-
27 interest, has received Lessee's notice to Bank, or its successor-in-interest, with
28 respect to such defaults and has not, after a reasonable opportunity to cure, under

1 the SNDA cured the same under the SNDA; (e) Bank shall not join Lessee as a
2 party defendant in any action or foreclosure proceeding unless such joinder is with
3 respect to this Lease, including the Real Property, and required by law to foreclose
4 the Deed of Trust, then only for such purpose and not for the purpose of terminating
5 this Lease; and (g) Lessee shall to attorn to the Bank, and its transferee, as if the
6 Bank and such transferee were Lessor under this Lease;

7 (C) Upon Lessee's receipt of written demand from Bank, which shall include
8 notice of same has been given in writing to Lessor, that Bank has elected to
9 terminate the license granted to Lessor to collect Rents from Lessee under this
10 Lease, as provided in the Deed of Trust, and directing Lessee to make payment
11 thereof directly to Bank, (a) Lessee shall, for any Rents due and payable thirty (30)
12 days thereafter, comply with such written demand and direction to pay and shall not
13 be required to determine whether Lessor is in default under any obligations to Bank,
14 or to honor any conflicting demand from Lessor, and (b) Lessee shall be entitled to
15 full credit under this Lease for any Rents paid to Bank in accordance with such
16 written demand and direction to the same extent as if such Rents were paid directly
17 to Lessor;

18 Any disputes between or among the Bank, including its successors-in-interest, and Lessor
19 shall be dealt with and adjusted solely between or among the Bank, including its
20 successors-in-interest, and Lessor.

21 (D) The SNDA shall be governed by California law.

22 **14.11 Modification.** Except as provided in Article 8, "Termination and Suspension,"
23 this Agreement may not be modified, and no waiver is effective, except by written
24 agreement signed by both parties. The Lessor acknowledges that Lessee employees have
25 no authority to modify this Agreement except as expressly provided in this Agreement.

26 **14.12 Non-Assignment.** Neither party may assign its rights or delegate its
27 obligations under this Agreement without the prior written consent of the other party.

1 **14.13 Governing Law.** The laws of the State of California govern all matters arising
2 from or related to this Agreement.

3 **14.14 Jurisdiction and Venue.** This Agreement is signed and performed in Fresno
4 County, California. The Lessor consents to California jurisdiction for actions arising from or
5 related to this Agreement, and, subject to the Government Claims Act, all such actions
6 must be brought and maintained in Fresno County.

7 **14.15 Construction.** The final form of this Agreement is the result of the parties'
8 combined efforts. If anything in this Agreement is found by a court of competent
9 jurisdiction to be ambiguous, that ambiguity shall not be resolved by construing the terms
10 of this Agreement against either party.

11 **14.16 Days.** Unless otherwise specified, "days" means calendar days.

12 **14.17 Headings.** The headings and section titles in this Agreement are for
13 convenience only and are not part of this Agreement.

14 **14.18 Severability.** If anything in this Agreement is found by a court of competent
15 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement
16 remains in effect, and the parties shall make best efforts to replace the unlawful or
17 unenforceable part of this Agreement with lawful and enforceable terms intended to
18 accomplish the parties' original intent.

19 **14.19 No Waiver.** Payment, waiver, or discharge by the Lessee of any liability or
20 obligation of the Lessor under this Agreement on any one or more occasions is not a
21 waiver of performance of any continuing or other obligation of the Lessor and does not
22 prohibit enforcement by the Lessee of any obligation on any other occasion.

23 **14.20 Entire Agreement.** This Agreement, including its exhibits, is the entire
24 agreement between the Lessor and the Lessee with respect to the subject matter of this
25 Agreement, and it supersedes all previous negotiations, proposals, commitments, writings,
26 advertisements, publications, and understandings of any nature unless those things are
27 expressly included in this Agreement. If there is any inconsistency between the terms of
28 this Agreement without its exhibits and the terms of the exhibits, then the inconsistency will

1 be resolved by giving precedence first to the terms of this Agreement without its exhibits,
2 and then to the terms of the exhibits.

3 **14.21 No Third-Party Beneficiaries.** This Agreement does not and is not intended to
4 create any rights or obligations for any person or entity except for the parties.

5 **14.23 Authorized Signature.** The Lessor represents and warrants to the Lessee
6 that:

7 (A) The Lessor is duly authorized and empowered to sign and perform its obligations
8 under this Agreement.

9 (B) The individual signing this Agreement on behalf of the Lessor is duly authorized
10 to do so and his or her signature on this Agreement legally binds the Lessor to the terms
11 of this Agreement.

12 **14.24 Force Majeure.** The Parties shall not be liable for any failure or delay in the
13 performance of their respective obligations hereunder caused by forces beyond its
14 reasonable control, including, but not limited to the following, acts of God, nature or war;
15 riots; pandemics; (each an event of "force majeure"), provided however, (a) as soon as
16 commercially practicable after the occurrence of any such event of force majeure, the
17 party claiming an event of force majeure shall promptly provide written notice thereof to
18 the other party and in such notice shall give reasonably full particulars concerning the
19 nature, scope and anticipated duration of the event of force majeure, and unless such
20 party gives notice of the cessation, or extension, of the occurrence of the event of force
21 majeure, the event of force majeure shall be deemed to have ceased as of the date in
22 such notice, or subsequent notice for the same event, of force majeure, and (b) an event
23 of force majeure will in no event include economic hardship, or acts, omissions,
24 circumstances, or events caused by, or through, a third party that is under contract with a
25 party where and to the extent that the acts, omissions, circumstances, or events caused
26 by, or through, the third party could have been avoided by commercially-reasonable,
27 timely, and diligent management or administration of the third party's performance of its
28 contractual obligations and duties under its contract by the party to such contract.

14.25 Counterparts. This Agreement may be signed in counterparts, each of which is an original, and all of which together constitute this Agreement.

14.26 Electronic Signatures. The parties agree that this Agreement may be executed by electronic signature as provided in this section.

(A) An “electronic signature” means any symbol or process intended by an individual signing this Agreement to represent their signature, including but not limited to (1) a digital signature; (2) a faxed version of an original handwritten signature; or (3) an electronically scanned and transmitted (for example by PDF document) version of an original handwritten signature.

(B) Each electronic signature affixed or attached to this Agreement (1) is deemed equivalent to a valid original handwritten signature of the person signing this Agreement for all purposes, including but not limited to evidentiary proof in any administrative or judicial proceeding, and (2) has the same force and effect as the valid original handwritten signature of that person.

(C) The provisions of this section satisfy the requirements of Civil Code section 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3, Part 2, Title 2.5, beginning with section 1633.1).

(D) Each party using a digital signature represents that it has undertaken and satisfied the requirements of Government Code section 16.5, subdivision (a), paragraphs (1) through (5), and agrees that each other party may rely upon that representation.

(E) This Agreement is not conditioned upon the parties conducting the transactions under it by electronic means and either party may sign this Agreement with an original handwritten signature.

[SIGNATURE PAGE FOLLOWS]

L-025
County of Fresno
Kingsburg Library

The parties are signing this Agreement on the date stated in the introductory clause.

LESSOR
APOTEK MODERNA, LLC
A CALIFORNIA LIMITED LIABILITY
COMPANY



Clinton J. Brock, Managing Member



Steven Safarjian, Managing Member

1515 Draper Street
Kingsburg, CA 93631

LESSEE
COUNTY OF FRESNO

Garry Bredefeld
Chairman of the Board of Supervisors of the
County of Fresno

ATTEST:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

Deputy

For accounting use only:

Org No.: 75112015
Account No.: 7340
Fund No.: 0107
Subclass No.: 10000

Exhibit A

Leased Premises



Exhibit B

Rent Schedule

Rent	Square Feet	Per Sq. Ft. Cost	Base Rent/Month	TIs/Month	Monthly Rent	Yearly Total
Year 1	5,800	\$1.32	\$7,656.00	\$15,512.21	\$23,168.21	\$278,018.52
Year 2	5,800	\$1.36	\$7,888.00	\$15,512.21	\$23,400.21	\$280,802.52
Year 3 Option	5,800	\$1.40	\$8,120.00	\$ -	\$8,120.00	\$97,440.00
						Max Lease \$656,261.04

Exhibit C

Self-Dealing Transaction Disclosure Form

In order to conduct business with the Lessee of Fresno (“Lessee”), members of a Lessor’s board of directors (“Lessee Lessor”), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the Lessee. A self-dealing transaction is defined below:

“A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest.”

The definition above will be used for purposes of completing this disclosure form.

Instructions

- (1) Enter board member’s name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member’s company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the Lessee. At a minimum, include a description of the following:
 - a. The name of the agency/company with which the corporation has the transaction; and
 - b. The nature of the material financial interest in the Corporation’s transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.

The form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

Exhibit C

(1) Company Board Member Information:			
Name:		Date:	
Job Title:			
(2) Company/Agency Name and Address:			
(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to)			
(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code § 5233 (a)			
(5) Authorized Signature			
Signature:		Date:	

Insurance Requirements

1. Required Policies

Without limiting the Lessee's right to obtain indemnification from the Lessor or any third parties, the Lessor, at its sole expense, shall maintain in full force and effect the following insurance policies throughout the term of this Agreement.

- (A) **Commercial General Liability.** Commercial General Liability Insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and an annual aggregate of Four Million (\$4,000,000). This policy shall be issued on a per occurrence basis. Lessee may require specific coverage(s) including completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire legal liability or any other liability insurance deemed necessary because of the nature of this contract.
- (B) **Property Insurance** – Against all risk of loss to property, at full replacement cost with no coinsurance penalty provision.
- (C) **Automobile Liability.** Automobile liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for property damages. Coverage must include any auto used in connection with this Agreement.
- (D) **Workers Compensation.** Workers compensation insurance as required by the laws of the State of California with statutory limits.
- (E) **Employer's Liability.** Employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for disease.

2. Additional Requirements

- (A) **Verification of Coverage.** Within 30 days after the Lessor signs this Agreement, and at any time during the term of this Agreement as requested by the Lessee's Risk Manager or the County Administrative Office, the Lessor shall deliver, or cause its broker or producer to deliver, to the County Risk Manager, at 2220 Tulare Street, 16th Floor, Fresno, California 93721, or HRRiskManagement@fresnocountyca.gov, and by mail or email to the person identified to receive notices under this Agreement, certificates of insurance and endorsements for all of the coverages required under this Agreement.
 - (i) Each insurance certificate must state that: (1) the insurance coverage has been obtained and is in full force; (2) the Lessee, its officers, agents, employees, and volunteers are not responsible for any premiums on the policy; and (3) the Lessor has waived its right to recover from the Lessee, its officers, agents, employees, and volunteers any amounts paid under any insurance policy required by this Agreement and that waiver does not invalidate the insurance policy.
 - (ii) The commercial general liability insurance certificate must state that the coverage shall apply as primary insurance and any other insurance, or self-insurance, maintained by the Lessee shall be excess only and not contributing with insurance provided under the Lessor's policy.
 - (iii) The automobile liability insurance certificate must state that the policy covers any auto used in connection with this Agreement.

Exhibit D

(B) **Acceptability of Insurers.** All insurance policies required under this Agreement must be issued by admitted insurers licensed to do business in the State of California and possessing at all times during the term of this Agreement an A.M. Best, Inc. rating of no less than A: VII.

(C) **Notice of Cancellation or Change.** For each insurance policy required under this Agreement, the Lessor shall provide to the Lessee, or ensure that the policy requires the insurer to provide to the Lessee, written notice of any cancellation or change in the policy as required in this paragraph. For cancellation of the policy for nonpayment of premium, the Lessor shall, or shall cause the insurer to, provide written notice to the Lessee not less than 10 days in advance of cancellation. For cancellation of the policy for any other reason, and for any other change to the policy, the Lessor shall, or shall cause the insurer to, provide written notice to the Lessee not less than 30 days in advance of cancellation or change. The Lessee in its sole discretion may determine that the failure of the Lessor or its insurer to timely provide a written notice required by this paragraph is a breach of this Agreement.

(D) **Lessee's Entitlement to Greater Coverage.** If the Lessor has or obtains insurance with broader coverage, higher limits, or both, than what is required under this Agreement, then the Lessee requires and is entitled to the broader coverage, higher limits, or both. To that end, the Lessor shall deliver, or cause its broker or producer to deliver, to the Lessee's Risk Manager certificates of insurance and endorsements for all of the coverages that have such broader coverage, higher limits, or both, as required under this Agreement.

(E) **Waiver of Subrogation.** The Lessor waives any right to recover from the Lessee, its officers, agents, employees, and volunteers any amounts paid under the policy of worker's compensation insurance required by this Agreement. The Lessor is solely responsible to obtain any policy endorsement that may be necessary to accomplish that waiver, but the Lessor's waiver of subrogation under this paragraph is effective whether or not the Lessor obtains such an endorsement.

(F) **Lessee's Remedy for Lessor's Failure to Maintain.** If the Lessor fails to keep in effect at all times any insurance coverage required under this Agreement, the Lessee may, in addition to any other remedies it may have, suspend or terminate this Agreement upon the occurrence of that failure, or purchase such insurance coverage, and charge the cost of that coverage to the Lessor. The Lessee may offset such charges against any amounts owed by the Lessee to the Lessor under this Agreement.

(G) **Subcontractors.** The Lessor shall require and verify that all subcontractors used by the Lessor to provide services under this Agreement maintain insurance meeting all insurance requirements provided in this Agreement. This paragraph does not authorize the Lessor to provide services under this Agreement using subcontractors.

Exhibit E

Kingsburg Library

Tenant Improvements Scope of Work

Tenant Improvement Cost shall not exceed \$350,000

The Scope of Work (including all labor, materials and equipment required to complete the work as outlined below (subject to change), shall be performed by Lessor and Lessor's contractor. The Scope of Work includes the following:

Initial Stage and Timeline Detail

All drawings, plans, and specifications for Tenant Improvements and any modifications to said Tenant Improvements must be approved in writing by both Lessor and Lessee, in accordance with Section 4.1.

Demolition/Abatement

- Heating Ventilation Air Conditioning (HVAC) ductwork as needed.
- Remove abandoned Electrical.
- Demo and remove door frames per plan.

Electrical

- Replace electrical service.
 - Including new Main Service panel.
- Electrical Light System.
 - Motion Sensing fixtures, new Switches and area specific functions.
- Light Fixtures.
 - Replace all overhead lighting with LED lighting in staff and public spaces (excluding basement).

Flooring

- Furnish and install Luxury Vinyl Tile (LVT) per plan.

Signage

- Furnish and install Exterior Signage and lighting per plans.
- Facade renovation per plans.

Exit/Entrance

- Install new Public Entry/Exit at Draper Street.
- Install new Staff Entry/Exit to Parking Lot.
- Install new Entry/Exit Push Security Door