

FIRST AMENDMENT TO OFFICE LEASE

This FIRST AMENDMENT TO OFFICE LEASE (this "**Amendment**") is made and effective as of September 16, 2021 (the "**Effective Date**") by and between 600 B STREET SAN DIEGO OWNER, LLC, a Delaware limited liability company ("**Landlord**"), and THE CITY OF SAN DIEGO, a California municipal corporation ("**Tenant**").

RECITALS:

A. Landlord and Tenant entered into that certain Office Lease dated as of April 1, 2020 (the "**Lease**"), whereby Landlord leases to Tenant and Tenant leases from Landlord that certain space containing approximately 14,972 rentable square feet, known as Suite 1300, located on the thirteenth (13th) floor (the "**Premises**") of that certain building located at 600 B Street, San Diego, CA 92101 (the "**Building**").

B. The Lease Term of the Lease commenced on April 1, 2020 and is currently scheduled to expire on September 30, 2021.

C. The parties now desire to amend the Lease to extend the Term of the Lease, and modify various terms and provisions of the Lease, all as hereinafter provided.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Capitalized Terms.** All capitalized terms when used herein shall have the same meanings given such terms in the Lease unless expressly superseded by the terms of this Amendment. All references in the Lease and in this Amendment to "**the Lease**" or "**this Lease**" shall be construed to mean the Lease referenced above as amended and supplemented by this Amendment.

2. **Condition of Premises.** Section 1.2 of the Lease is deleted in its entirety and replaced with the following:

"1.2 **Condition of Premises.** Tenant is in possession of the Premises and accepts the same in its current "AS IS" condition without any agreements, understandings or obligations on the part of Landlord to perform or pay for any alterations, repairs or improvements, except as set forth in the Lease. Tenant further acknowledges that except as expressly provided in the Lease, neither Landlord nor any agent of Landlord has made any representation or warranty regarding the condition of the Premises, the improvements, refurbishments, or

alterations therein, or with respect to the functionality thereof or the suitability of any of the foregoing for the conduct of Tenant's business and that all representations and warranties of Landlord, if any, are as set forth in the Lease."

3. Lease Term. Article 2 of the Lease is deleted in its entirety and replaced with the following:

"2.1 Lease Term. The terms and provisions of this Lease shall be effective as of the date of this Lease except for the provisions of this Lease relating to the payment of Rent. The term of this Lease (the "Lease Term") shall be as set forth in Section 7.1 of the Summary and shall commence on the date (the "Lease Commencement Date") set forth in Section 7.2 of the Summary and shall terminate on the date (the "Lease Expiration Date") set forth in Section 7.3 of the Summary, unless this Lease is sooner terminated as hereinafter provided. For purposes of this Lease, the term "Lease Year" shall mean each consecutive twelve (12) month period during the Lease Term, provided, that the first Lease Year shall commence on the Lease Commencement Date and end on the last day of the eleventh month thereafter and the second and each succeeding Lease Year shall commence on the first day of the next calendar month and that the last Lease Year shall end on the Lease Expiration Date. If Landlord does not deliver possession of the Premises to Tenant on or before the anticipated Lease Commencement Date (as set forth in Section 7.2(ii) of the Summary), Landlord shall not be subject to any liability nor shall the validity of this Lease nor the obligations of Tenant hereunder be affected.

2.2 Extension of Lease Term. The Term of the Lease, which is scheduled to expire on September 30, 2021, is hereby extended for one (1) additional period of thirty-six (36) months, commencing on October 1, 2021 and expiring on September 30, 2024, unless sooner terminated or extended in accordance with the terms of the Lease (such three-year extension term shall be referred to herein as the "Extended Term"). No such extension shall operate to release Landlord or Tenant from any obligations, liabilities for any amounts owed, or for defaults which existed under the Lease prior to the commencement of the Extended Term.

2.3 Tenant Deposit. Within 45 days following the Effective Date, Tenant shall pay Landlord a deposit in the amount of one hundred thirty-four thousand seven hundred forty-eight dollars (\$134,748.00) ("Deposit"), which amount represents the Base Rent (as defined in Section 3.2 below) for the first three (3) months of the Extended Term that Landlord has agreed to abate pursuant to Section 3.2. If Tenant terminates this Lease in accordance with Section 2.4 below, Landlord shall retain the Deposit. If Tenant does not terminate the Lease pursuant to Section 2.4, Landlord shall return to City the Deposit at the end of the Extended Term.

2.4 Tenant Annual Fiscal Year Budget Condition. Notwithstanding anything to the contrary in the Lease, Tenant's obligation to pay rent and Tenant's

associated right to occupy the Premises, are subject to the City Council of Tenant ("City Council") allocating money to pay rent under the Lease in Tenant's fiscal years following Tenant's 2021-2022 fiscal year (July 1, 2021 – June 30, 2022), in the City Council's sole and absolute discretion. Tenant agrees to annually take all necessary action to include rent payments under the Lease in Tenant's future proposed annual budgets for all Tenant fiscal years following Tenant's 2021-2022 fiscal year in which any part of the Extended Term occurs, subject to the reserved sole and absolute discretion of the City Council to approve each such budget, with or without allocating money for rent payments under the Sublease. The parties acknowledge that the City Council adopts an annual fiscal year budget for Tenant before the end of each fiscal year. If the City Council does not allocate money to pay rent under the Lease in a Tenant annual budget for a fiscal year in which any part of the Extended Term occurs, then Tenant shall have the right to terminate this Lease upon delivery of written notice to Landlord promptly following such City Council decision. The effective date of such termination (the "**Termination Date**") shall be set forth in Tenant's notice to Landlord, which Termination Date shall not be sooner than the date that is six (6) months after Landlord's receipt of Tenant's termination notice."

4. Base Rent During Extended Term. Section 3.2 is added to the Lease as follows:

"3.2 Base Rent During Extended Term. During the Extended Term, Tenant shall pay Base Rent to Landlord for the Premises in accordance with the following schedule:

<u>Periods of Extended Term</u>	<u>Annual Base Rent</u>	<u>Monthly Installment of Base Rent</u>	<u>Monthly Rental Rate Per Rentable Square Foot of the Premises</u>
October 1, 2021 – September 30, 2022	\$538,992.00	\$44,916.00	\$3.00*
October 1, 2022 – September 30, 2023	\$558,755.04	\$46,562.92	\$3.11
October 1, 2023 – September 30, 2024	\$578,518.08	\$48,209.84	\$3.22

*Landlord hereby agrees to abate Tenant's obligation to pay Base Rent for the first three (3) months of the Extended Term. During such abatement period, Tenant shall remain responsible for the payment of all of its other monetary obligations under the Lease. In the event of early termination by Tenant pursuant to Section 2.4 above, Landlord shall be entitled to retain the Deposit referenced in Section 2.3, and the retention of the Deposit shall constitute Landlord's sole remedy for the early termination."

5. Tenant's Share of Operating Expenses; Expense Base Year. Section 4.6 is added to the Lease as follows:

"4.6 Tenant's Share of Operating Expenses; Expense Base Year. During the Extended Term, Tenant's Share of Operating Expenses for the Premises shall equal 4.17% (i.e., 14,972 rentable square feet of the Premises / 359,218 total rentable square feet of the Building), and the Expense Base Year for determining Tenant's Share of increases in Operating Expenses shall be the 2022 calendar year. The Tax Expense Base Year for determining Tenant's Share of increases in Tax Expenses shall be the 2022 calendar year. The Utilities Base Year for determining Tenant's Share of increases in Utilities Costs shall be the 2022 calendar year."

6. Tenant Parking. Article 23 of the Lease is deleted in its entirety and replaced with the following:

"23.1 Tenant Parking. Tenant shall rent throughout the Lease Term and Lease Option the number of parking passes set forth in Section 11 of the Summary, located in those portions of the Parking Facilities as may be designated by Landlord from time to time. Tenant shall pay to Landlord for the use of such parking passes, on a monthly basis, the prevailing rate charged from time to time by Landlord or Landlord's parking operator for parking passes in the Parking Facilities where such parking passes are located. Tenant's continued right to use the parking passes is conditioned upon Tenant abiding by all rules and regulations which are prescribed from time to time for the orderly operation and use of the Parking Facilities and upon Tenant's cooperation in seeing that Tenant's employees and visitors also comply with such rules and regulations. In addition, Landlord may assign any parking spaces and/or make all or a portion of such spaces reserved or institute an attendant-assisted tandem parking program and/or valet parking program if Landlord determines in its sole discretion that such is necessary or desirable for orderly and efficient parking. Landlord specifically reserves the right, from time to time, to change the size, configuration, design, layout, location and all other aspects of the Parking Facilities, and Tenant acknowledges and agrees that Landlord, from time to time, may, without incurring any liability to Tenant and without any abatement of Rent under this Lease temporarily close-off or restrict access to the Parking Facilities, or temporarily relocate Tenant's parking spaces to other parking structures and/or surface parking areas within a reasonable distance from the Parking Facilities, for purposes of permitting or facilitating any such construction, alteration or improvements or to accommodate or facilitate renovation, alteration, construction or other modification of other improvements or structures located on the Real Property. Landlord may delegate its responsibilities hereunder to a parking operator in which case such parking operator shall have all the rights of control attributed hereby to Landlord. The parking rates charged by Landlord for Tenant's parking passes shall be exclusive of any parking tax or other charges imposed by governmental authorities in connection with the use of such parking, which taxes and/or charges shall be paid directly by Tenant or the parking users, or, if directly

imposed against Landlord, Tenant shall reimburse Landlord for all such taxes and/or charges within ten (10) days after Tenant's receipt of the invoice from Landlord. The parking passes provided to Tenant pursuant to this Article 23 are provided solely for use by Tenant's own personnel and such passes may not be transferred, assigned, subleased or otherwise alienated by Tenant without Landlord's prior approval.

23.2 Tenant shall have the right, but not the obligation, to rent the number and type of parking passes set forth in Section 13 of the Summary for parking in such portions of the Parking Facility as shall be designated by Landlord from time to time. Tenant shall notify Landlord at least thirty (30) days prior to the Lease Commencement Date of the number and type of such parking passes Tenant shall rent during the Lease Term and Lease Option pursuant to the foregoing provisions of this Article 23; provided that Tenant may increase or decrease such parking passes so rented by Tenant, not to exceed, in the aggregate, the number and type of parking passes set forth in Section 13 of the Summary upon thirty (30) days' prior notice to Landlord. However, if Tenant does not rent from Landlord the total number and type of parking passes set forth in Section 13 of the Summary and such parking passes are not rented from Landlord for a period of three (3) months or more (the amount of such parking passes which are not rented by Tenant shall be referred to herein as the "Unrented Passes") and Tenant shall have no further rights to rent such Unrented Passes from Landlord.

23.3 Parking During Extended Term. During the Extended Term, Tenant shall have the right, but not the obligation, to rent a total of up to thirteen (13) unreserved parking passes subject to the terms and conditions of this Article 23."

7. Electric Vehicle Charging Station. Section 24.33 is added to the Lease as follows:

"24.33 Electric Vehicle Charging Station. To the fullest extent permitted by applicable governmental restrictions, Tenant hereby waives the provisions of California Civil Code Section 1952.7 as such provisions may apply to the Premises, the Common Areas, and the Lease. In consideration of the foregoing waiver, Landlord agrees that it shall comply with the terms and provisions of California Civil Code Section 1952.7."

8. Brokers. Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Amendment other than CBRE, Inc. (the "Broker"), who shall be paid a commission pursuant to a separate agreement between Landlord and Broker, and that they know of no other real estate broker or agent who is entitled to a commission in connection with this Amendment. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, and costs and expenses (including, without limitation, reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate

broker or agent, other than to the Broker, occurring by, through or under the indemnifying party.

9. Authorization. Landlord and Tenant represent and warrant to each other respectively that they have the requisite power and authority to enter into this Amendment; that all necessary and appropriate approvals, authorizations and other steps have been taken to effect the legality of this Amendment; that the signatories executing this Amendment on behalf of Landlord and Tenant have been duly authorized and empowered to execute this Amendment on behalf of Landlord and Tenant, respectively; and that this Amendment is valid and shall be binding upon and enforceable against Landlord and Tenant and their respective successors and assigns and shall inure to the benefit of Landlord and Tenant, and their respective successors and assigns.

10. Certification as to Original Lease. Tenant certifies that (a) the Lease is in full force and effect and has not been assigned or amended, except as previously stated in the Recitals above; (b) there are no uncured defaults on the part of Tenant or Landlord under the Lease; (c) there are no outstanding obligations by Landlord to Tenant related to any Tenant Improvements to the Premises, including but not limited to any tenant improvement allowances; (d) there are no outstanding or unpaid broker or leasing commissions owed by Tenant relating to the Lease; (e) Tenant has taken possession of the Premises and has no claims of default as of the condition of the Premises or the Building; and (f) to Tenant's knowledge, there are no unexercised options or rights of first refusal relating to the Premises or the Lease.

11. Submission. Submission of this Amendment by Landlord to Tenant for examination and/or execution shall not in any manner bind Landlord and no obligations on Landlord shall arise under this Amendment unless and until this Amendment is fully signed and delivered by Landlord and Tenant.

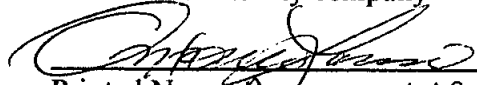
12. Counterparts; Electronic Signatures. This Amendment may be executed in any number of counterparts, all of which shall be deemed an original, but such counterparts, when taken together, shall constitute one agreement. The parties hereto may deliver their signatures to this Amendment by facsimile, electronic mail, or other electronic transmission (collectively, "Electronic Signatures"), and agree to accept such digital image of this Amendment, as executed, as a true and correct original and admissible as if such signatures were original executed versions of this Amendment. In the event a signature is transmitted electronically, the party so transmitting shall deliver original signature pages as soon as reasonably possible thereafter; provided, however, that the failure to deliver such original signature pages shall not diminish the binding nature of any Electronic Signatures.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE.]

IN WITNESS WHEREOF, this Amendment has been executed as of the Effective Date.

"Landlord"

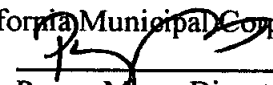
600 B STREET SAN DIEGO OWNER, LLC,
a Delaware limited liability company

By: 

Printed Name: ANTONIO LARIO
Its Authorized Signatory

"Tenant"

THE CITY OF SAN DIEGO,
a California Municipal Corporation

By: 

Penny Maus, Director
Real Estate Assets Department

Approved as to form this 26th day of September 2021:

MARA W. ELLIOTT, CITY ATTORNEY

By: 

Name: Julie Gough Inman
Title: Deputy City Attorney