

SECOND AMENDMENT TO OFFICE LEASE

This SECOND AMENDMENT TO OFFICE LEASE (“**Second Amendment**”) is made and entered into as of the [] day of September 2019, by and between KILROY REALTY, L.P., a Delaware limited partnership (“**Landlord**”), and ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY, a joint powers authority pursuant to California Government Code 5602 (“**Tenant**”).

R E C I T A L S :

A. Landlord and Tenant entered into that certain Office Lease dated May 22, 2014 (the “**Original Lease**”), as amended by that certain First Amendment to Office Lease dated July 7, 2014 (the “**First Amendment**”), whereby Landlord leases to Tenant and Tenant leases from Landlord that certain 7,074 rentable (6,222 usable) square feet of space commonly known as Suite 200 (the “**Premises**”) and located on the second (2nd) floor of that certain office building located at 3760 Kilroy Airport Way, Long Beach, California 90806 (the “**Building**”), which Building is located in Phase II of Kilroy Airport Center, Long Beach. The Original Lease and the First Amendment shall be referred to collectively herein as the “**Lease**.”

B. Landlord and Tenant desire to extend the Lease Term, and to make other modifications to the Lease, and in connection therewith, Landlord and Tenant desire to amend the Lease as hereinafter provided.

A G R E E M E N T :

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 hereto hereby agree as follows:

1. **Capitalized Terms**. All capitalized terms when used herein shall have the same meaning as is given such terms in the Lease unless expressly superseded by the terms of this Second Amendment.

2. **Extension of Current Lease Term**. The Lease Term is currently scheduled to expire on February 29, 2020. Notwithstanding any provision to the contrary contained in the Lease, the Lease Term is hereby extended for a period of five (5) years and five (5) months in order that the Lease, as hereby amended, shall expire on July 31, 2025 (the “**Extended Term Expiration Date**”), unless sooner terminated as provided in the Lease, as amended. The period of time commencing on March 1, 2020 (the “**Extended Term Commencement Date**”), and ending on the Extended Term Expiration Date, shall be referred to herein as the “**Extended Term**.”

3. **Base Rent**.

3.1. **In General**. Prior to the Extended Term Commencement Date, Tenant shall continue to pay monthly installments of Base Rent in accordance with the terms and conditions of the Lease. Notwithstanding any provision to the contrary set forth in the Lease, commencing on the Extended Term Commencement Date and continuing throughout the Extended Term, Tenant shall pay to Landlord monthly installments of Base Rent for the Premises as follows:

<u>Period During Extended Term</u>	<u>Annual Base Rent*</u>	<u>Monthly Installment of Base Rent*</u>	<u>Monthly Rental Rate per Square Foot</u>
March 1, 2020 – February 28, 2021	\$241,930.80◇	\$20,160.90◇	\$2.85
March 1, 2021 – February 28, 2022	\$249,188.76	\$20,765.73	\$2.94**
March 1, 2022 – February 28, 2023	\$256,664.40	\$21,388.70	\$3.02**

March 1, 2023 – February 29, 2024	\$264,364.32	\$22,030.36	\$3.11**
March 1, 2024 – February 29, 2025	\$272,295.24	\$22,691.27	\$3.21**
March 1, 2025 – July 31, 2025	N/A	\$23,372.01	\$3.30**

* The initial Monthly Installment of Base Rent amount was calculated by multiplying the initial Monthly Rental Rate per Rentable Square Foot of the Premises amount by the number of rentable square feet of space in the Premises, and the initial Annual Base Rent amount was calculated by multiplying the initial Monthly Installment of Base Rent amount by twelve (12). In all subsequent Base Rent payment periods during the remainder of the Extended Term commencing on March 1, 2021, the calculation of each Monthly Installment of Base Rent amount reflects an annual increase of three percent (3%) and each Annual Base Rent amount was calculated by multiplying the corresponding Monthly Installment of Base Rent amount by twelve (12).

** The amounts identified in the column entitled “Monthly Rental Rate per Rentable Square Foot of the Premises” are rounded amounts and are provided for informational purposes only.

◇ Subject to the terms set forth in Section 3.2, below, the Base Rent attributable to the five (5) month period commencing on March 1, 2020 and ending on July 31, 2020 shall be abated.

3.2. **Base Rent Abatement.** Provided that no event of default (beyond the applicable notice and cure period set forth in the Lease, as amended) is occurring during the five (5) month period commencing on March 1, 2020 and ending on July 31, 2020 (the “**Base Rent Abatement Period**”), Tenant shall not be obligated to pay any Base Rent otherwise attributable to the Premises during such Base Rent Abatement Period (the “**Base Rent Abatement**”). Landlord and Tenant acknowledge that the aggregate amount of the Base Rent Abatement equals One Hundred Thousand Eight Hundred Four and 50/100 Dollars (\$100,804.50) (i.e., \$20,160.90 per month). Tenant acknowledges and agrees that during such Base Rent Abatement Period, such abatement of Base Rent for the Premises shall have no effect on the calculation of any future increases in Base Rent or Direct Expenses payable by Tenant pursuant to the terms of the Lease, as amended, which increases shall be calculated without regard to such Base Rent Abatement. Additionally, Tenant shall be obligated to pay all “Additional Rent” (as that term is defined in Section 4.1 of the Original Lease) during the Base Rent Abatement Period. Tenant acknowledges and agrees that the foregoing Base Rent Abatement has been granted to Tenant as additional consideration for entering into this Second Amendment, and for agreeing to pay the Base Rent and perform the terms and conditions otherwise required under the Lease, as amended. If Tenant shall be in default under the Lease, as amended, and shall fail to cure such default within the notice and cure period, if any, permitted for cure pursuant to the Lease as amended, or if the Lease, as amended, is terminated for any reason other than Landlord’s breach of the Lease, as amended, then the dollar amount of the unapplied portion of the Base Rent Abatement as of the date of such default or termination, as the case may be, shall be converted to a credit to be applied to the Base Rent applicable at the end of the Extended Term and Tenant shall immediately be obligated to begin paying Base Rent for the Premises in full.

4. **Tenant’s Share of Direct Expenses.** Prior to the Extended Term Commencement Date, Tenant shall continue to pay the Excess (as that term is defined in Section 1.3 of Exhibit C of the Original Lease) in accordance with the terms and conditions of the Lease. Commencing on the Extended Term Commencement Date, and continuing throughout the remainder of the Extended Term, Tenant shall continue to pay the Excess for the Premises in accordance with the terms of the Lease, as amended; provided, however, effective as of the Extended Term Commencement Date, for purposes of calculating the amount of the Excess which arise or accrue on or after the Extended Term Commencement Date in connection with the Premises, the Base Year shall be the calendar year 2020. Notwithstanding anything to the contrary in the Lease, as amended, Tenant shall have no obligation to pay the Excess in connection with the Premises which arise or accrue between the Extended Term Commencement Date and February 28, 2021. Commencing on March 1, 2021 and continuing throughout the remainder of the Extended Term, Tenant shall pay to Landlord the Excess which arises or accrues on and after March 1, 2021, in accordance with the terms of the Lease, as amended.

5. **Condition of Premises.**

5.1. **In General.** Landlord and Tenant acknowledge that Tenant has been occupying the Premises, and Tenant shall continue to accept the Premises in its presently existing, “as is” condition, and, therefore, except for "Landlord's Work" as provided below in Section 5.2, Landlord shall not be obligated to provide or pay for any improvement work or services related to the improvement of the Premises. Tenant also acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty regarding the condition of the Premises, the Building or the Project or with respect to the suitability of any of the foregoing for the conduct of Tenant’s business.

5.2. **Landlord's Work.** Notwithstanding the foregoing, Landlord shall, at its sole cost: (i) touch up the interior painted walls of the Premises with Building standard paint, (ii) clean the existing carpet in the Premises, and (iii) perform a Building standard deep clean of the entire Premises (including without limitation, polishing the VCT, and including underneath the refrigerator) (collectively, "**Landlord's Work**"), provided that all such Landlord's Work shall be performed to Landlord's Building standard condition, using Building standard procedures, methods, materials, colors and finishes.

5.3. **No Constructive Eviction.** Tenant hereby acknowledges that, notwithstanding Tenant’s occupancy of the Premises during the performance of the Landlord's Work, Landlord shall be permitted to perform the Landlord's Work during normal business hours, and Tenant shall cooperate with Landlord, including, without limitation, by providing access to the Premises and by providing a clear working area in the Premises (to the extent required by Landlord) for the performance of the Landlord's Work (including, but not limited to, the moving of Tenant’s property away from the area Landlord in which Landlord shall perform the Landlord's Work). Tenant will be responsible for moving Tenant’s furniture and fixtures away from the area in which Landlord shall perform the Landlord's Work. In connection therewith, Tenant shall cooperate fully in connection with Landlord’s completion of the performance of the Landlord's Work. Tenant hereby agrees that the performance of the Landlord's Work shall in no way constitute a constructive eviction of Tenant nor entitle Tenant to any abatement of rent or damages of any kind. Furthermore, Landlord shall have no responsibility, or for any reason be liable, to Tenant for any direct or indirect injury to, or interference with, Tenant’s business arising from the performance of the Landlord's Work, nor shall Tenant be entitled to any compensation or damages from Landlord for loss of the use of the whole or any part of the Premises or of Tenant’s furniture, fixtures or personal property or improvements resulting from the performance of the Landlord's Work or Landlord’s actions in connection with the performance of the Landlord's Work or for any inconvenience or annoyance occasioned by the performance of the Landlord's Work or Landlord’s actions in connection with the performance of the Landlord's Work.

6. **Prohibited Persons; Foreign Corrupt Practices Act and Anti-Money Laundering.** Neither Tenant nor any of its affiliates, nor any of their respective members, partners or other equity holders, and none of their respective officers, directors or managers is, nor prior to or during the Lease Term, will they become a person or entity with whom U.S. persons or entities are restricted from doing business under (a) the Patriot Act (as defined below), (b) any other requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury (“**OFAC**”) (including any “blocked” person or entity listed in the Annex to Executive Order Nos. 12947, 13099 and 13224 and any modifications thereto or thereof or any other person or entity named on OFAC’s Specially Designated Blocked Persons List) or (c) any other U.S. statute, Executive Order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism) or other governmental action (collectively, “**Prohibited Persons**”). Prior to and during the Lease Term, Tenant, and to Tenant’s knowledge, its employees and any person acting on its behalf have at all times fully complied with, and are currently in full compliance with, the Foreign Corrupt Practices Act of 1977 and any other applicable anti-bribery or anti-corruption laws. Tenant is not entering into this Second Amendment, directly or indirectly, in violation of any laws relating to drug trafficking, money laundering or predicate crimes to money laundering. As used herein, “**Patriot Act**” shall mean the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) and all other statutes, orders, rules and regulations of the U.S. government and its various executive departments, agencies and offices interpreting and implementing the Patriot Act.

7. **California Accessibility Disclosure.** For purposes of Section 1938 of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges, that the Premises have not undergone inspection by a Certified Access Specialist (CASp). As required by Section 1938(e) of the California Civil Code, Landlord hereby states as follows: "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises." In furtherance of the foregoing, Landlord and Tenant hereby agree as follows: (a) any CASp inspection requested by Tenant shall be conducted, at Tenant's sole cost and expense, by a CASp designated by Landlord, subject to Landlord's reasonable rules and requirements; (b) Tenant, at its sole cost and expense, shall be responsible for making any improvements or repairs within the Premises to correct violations of construction-related accessibility standards; and (c) if anything done by or for Tenant in its use or occupancy of the Premises shall require any improvements or repairs to the Building or Project (outside the Premises) to correct violations of construction-related accessibility standards, then Tenant shall reimburse Landlord upon demand, as Additional Rent, for the cost to Landlord of performing such improvements or repairs.

8. **Broker.** 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 Second Amendment, and that they know of no real estate broker or agent who is entitled to a commission in connection with this Second Amendment other than Cushman & Wakefield, representing both Landlord and Tenant (the "**Broker**"). Each party agrees to indemnify and defend the other party against and hold the other party harmless from and against 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 the indemnifying party's dealings with any real estate broker or agent, other than the Broker. The terms of this Section 8 shall survive the expiration or earlier termination of the Lease, as hereby amended.

9. **Security Deposit.** [TO BE CONFIRMED UPON REVIEW OF TENANT'S FINANCIALS: Notwithstanding anything in the Lease to the contrary, the Security Deposit held by Landlord pursuant to the Lease, as amended hereby, shall equal Twenty-Five Thousand Seven Hundred Nine and 21/100 Dollars (\$25,709.21). Landlord and Tenant acknowledge that, in accordance with Article 21 of the Lease, Tenant has previously delivered the sum of Nineteen Thousand Four Hundred Fifty-Three and 50/100 (\$19,453.50) to Landlord as security for the faithful performance by Tenant of the terms, covenants and conditions of the Lease. Concurrently with Tenant's execution of this Second Amendment, Tenant shall deposit with Landlord an amount equal to Six Thousand Two Hundred Fifty-Five and 71/100 Dollars (\$6,255.71) to be held by Landlord as a part of the Security Deposit. To the extent that the total amount held by Landlord at any time as security for the Lease, as hereby amended, is less than Twenty-Five Thousand Seven Hundred Nine and 21/100 Dollars (\$25,709.21), Tenant shall pay the difference to Landlord within ten (10) days following Tenant's receipt of notice thereof from Landlord.]

10. **Parking.** Notwithstanding anything to the contrary in the Lease, throughout the Extended Term, Tenant shall continue to have the right to rent, free of charge (including, without limitation, the Reserved Parking Passes rented under the terms of the Lease as amended hereby) (excepting only any taxes or other charges imposed by any governmental authority in connection with the use of the parking facility by Tenant pursuant to Article 28 of the Original Lease), the number of parking passes set forth in Section 9 of the Summary of the Original Lease; provided, however, that notwithstanding anything to the contrary provided in the Lease, Tenant may only designate up to two (2) unreserved parking passes for "Car Pool Passes." Accordingly, effective as of the Extended Term Commencement Date: (i) the phrase "up to four (4) of such passes may be converted to the use of a car pool space" in Section 9 of the Summary of the Original Lease shall be deemed and deleted and replaced with the phrase "up to two (2) of such passes may be converted to the use of a car pool space"; and (ii) the phrase "up to four (4) of such unreserved parking passes for the parking of 'pool cars'" in Article 28 of the Original Lease, shall be deemed and deleted and replaced with "up to two (2) of such unreserved parking passes for the parking of

'pool cars.'" Except as set forth in this Section 10, Tenant shall lease the unreserved parking passes, the Reserved Parking Passes (if any) and the Car Pool Passes (if any) in accordance with terms and conditions of Article 28 of the Original Lease.

11. **No Further Option.** Landlord and Tenant hereby acknowledge and agree that notwithstanding anything to the contrary provided in the Lease, as amended, Tenant shall have no further option to extend the Lease Term. Accordingly, Section 2.2 of the Original Lease is hereby deemed deleted and of no further force or effect.

12. **No Further Termination Right.** Landlord and Tenant hereby acknowledge and agree that the Early Termination Right as set forth in Section 2.3 of the Original Lease has expired and therefore, Section 2.3 of the Original Lease is hereby deemed deleted and of no further force and effect.

13. **Signatures.** The parties hereto consent and agree that this Second Amendment may be signed and/or transmitted by facsimile, e-mail of a .pdf document or using electronic signature technology (e.g., via DocuSign or similar electronic signature technology), and that such signed electronic record shall be valid and as effective to bind the party so signing as a paper copy bearing such party's handwritten signature. The parties further consent and agree that (1) to the extent a party signs this Second Amendment using electronic signature technology, by clicking "SIGN", such party is signing this Second Amendment electronically, and (2) the electronic signatures appearing on this Second Amendment shall be treated, for purposes of validity, enforceability and admissibility, the same as handwritten signatures.

14. **Conflict, No Further Modification.** In the event of any conflict between the Lease and this Second Amendment, the terms of this Second Amendment shall prevail. Except as specifically set forth in this Second Amendment, all of the terms and provisions of the Lease shall remain unmodified and in full force and effect.

[Signatures contained on next page.]

IN WITNESS WHEREOF, this Second Amendment has been executed as of the day and year first above written.

“LANDLORD”

KILROY REALTY, L.P.,
a Delaware limited partnership

By: Kilroy Realty Corporation,
a Maryland corporation,
General Partner

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

“TENANT”

ALAMEDA CORRIDOR TRANSPORTATION
AUTHORITY,
a joint powers authority pursuant to California
Government Code 5602

By: _____
Name: John T. Doherty
Its: CEO

By: _____
Name: James P. Preusch
Its: CFO

APPROVED AS TO FORM
City Attorney –

By: _____
Deputy City Attorney

Date: _____