

FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT (“**First Amendment**”) dated as of June 30, 2023, is made by and between the SURPLUS PROPERTY AUTHORITY OF THE CITY OF RICHMOND, a public body corporate and politic (“**Landlord**”) and MARINE SPILL RESPONSE CORPORATION, a Tennessee not-for-profit corporation (“**Tenant**”). Landlord and Tenant are sometimes collectively referred to as the “**Parties**” and individually as a “**Party**.”

RECITALS

- A. Landlord and Tenant entered into that certain Lease dated January 1, 1993 (“**Original Lease**”) for that certain real property as legally described on Exhibit A located at Point Potrero Marine Terminal, Finger Pier Number One with a common address 1314 Canal Boulevard in Richmond, California (“**Premises**”).
- B. The Term of the Original Lease was previously extended and currently terminates at midnight on June 30, 2023.
- C. The Parties desire to amend the Original Lease as set forth in this First Amendment to include extending the Lease term.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree to amend the Original Lease as follows:

1. EFFECTIVE DATE. This First Amendment shall be effective on the date this First Amendment is executed by Landlord after approval by Landlord’s Board (“**Effective Date**”).

2. RECITALS. The foregoing recitals are incorporated into this First Amendment and made a part hereof.

3. DEFINITIONS. All defined terms in this First Amendment shall have the same meaning as in the Original Lease except as otherwise specifically defined in this First Amendment.

4. CONFIRMATION OF RENT. The Parties confirm that as of the Effective Date the Base Rent is Thirty-One Thousand Nine Hundred Five Dollars and Fifty-Four Cents (\$31,905.54).

5. MODIFICATIONS/AMENDMENTS. As of the Effective Date, the Original Lease is amended/modified as follows:

- a. **Section 1. Definitions.** The definitions of “**Extended Term**” and “**Lease Year**” shall be deleted in their entirety and the following inserted in their place and stead:

“**Extended Term**” means the two (2) successive 5-year extensions of the term of this Lease, as provided in Section 3.1 hereof.

“**Lease Year**” means a period of twelve (12) consecutive full calendar months, each commencing upon the first day of Landlord’s fiscal year, July 1, and ending on June 30 of the following year.

- b. **Section 3.1 Initial Term and Extensions** is deleted in its entirety and the following is inserted in its place and stead:

“**3.1 Initial Term and Extensions**. The term of this Lease shall be ten (10) Lease Years commencing at 12:01 a.m. on July 1, 2023 as may be extended as follows (“Term”).

Tenant shall have two (2) successive options to extend the Term each for an additional five (5) year period commencing on the date immediately succeeding the expiration date of the then existing Term, upon the terms and conditions hereof, including the rent specified for such Extended Term as provided in Section 4.1, provided that at the time of exercise of the applicable option, an Event of Default (as defined in Section 15.1) does not exist. An option must be exercised by Tenant giving written notice of exercise to Landlord delivered not less than nine (9) months nor more than twelve (12) months prior to expiration of the existing Term. If the first option to extend is not exercised, the second option to extend shall automatically terminate and be of no further force or effect.”

- c. **Section 4. Rent** is deleted in its entirety and the following is inserted in its place and stead:

“**4.1 Amount of Rent**. Commencing with the Term on July 1, 2023 and for the first Lease Year, Tenant shall pay to Landlord monthly rent (“**Base Rent**”) equal to Thirty-Three Thousand Twenty-Two Dollars and Twenty-Three Cents (\$33,022.23). For Lease Years 2 through 5 of the Term, Base Rent shall be increased annually by the CPI Increase (as defined below) but not more than three and a half percent (3.5%) for each such Lease Year. For Lease Years 6 through 10 of the Term, Base Rent shall increase by the CPI Increase but no less than three and a half percent (3.5%) and no more than four percent (4%) for each such Lease Year. For each Lease Year during an Extended Term, Base Rent shall increase by the actual CPI Increase.

The Base Rent for each Lease Year shall be increased (“**CPI Increase**”) to be the sum of (i) the Base Rent for the immediate preceding Lease Year, plus (ii) the product obtained by multiplying such amount by the percentage increase in the Consumer Price Index measured from the measuring month which is April of each new Lease Year to the measuring month April of the prior Lease Year. As used herein, the term “Consumer Price Index” (“**Consumer Price Index**”) shall mean the United States Department of Labor’s Bureau of Labor Statistics Consumer Price Index, All Urban Consumers, All Items, San Francisco-Oakland-San Jose, California (1982-84 equals 100), or the successor of such index.

Tenant shall continue paying the current Base Rent until the increased Base Rent has been calculated. Upon such calculation, Landlord shall give written notice to Tenant of the amount of the new Base Rent which shall be due and payable effective as of the commencement of the new Lease Year and Tenant shall, upon receipt of such notice

(“**Notice Date**”), pay Landlord any shortage in Base Rent accruing between the commencement of the new Lease Year and the Notice Date.

4.2. Due Date. All rental payments shall be made in advance and on the first (1st) day of each month during the Term of this Lease without offset or demand. All monetary obligations of Tenant under this Lease, including, but not limited to, insurance premiums, property taxes, maintenance expenses, late charges, and utility costs shall be deemed “Rent” for purposes of this Lease.

4.3 Place of Payment. Rent shall be payable at such place as Landlord may specify, by written notice to Tenant, as hereinafter provided from time to time.”

- d. **Section 18.1 Notice** is amended to change the additional notice to Landlord to be provided as follows:

City of Richmond
450 Civic Center Plaza
Richmond, CA 94804
Attn: City Attorney

Section 18.1 Notice is further amended to replace the addresses for Tenant with the following:

Marine Spill Response Corporation
2280 Bates Ave., Suite 211
Concord, CA 94520
Attn: Contract Administrator

With a copy to:

Marine Spill Response Corporation
220 Spring Street, Suite 500
Herndon, VA 20170
Attn: General Counsel

6. FULL FORCE AND EFFECT. Except as specifically modified by this First Amendment, all of the terms, covenants, and conditions of the Original Lease shall remain in full force and effect. In case of any inconsistencies between the terms and conditions contained in the Original Lease and the terms and conditions contained in this First Amendment, the terms and conditions of this First Amendment shall control.

7. CONSTRUCTION. This First Amendment shall be construed according to its fair meaning as if prepared by all Parties to this First Amendment. Headings used in this First Amendment are provided for convenience only and shall not be used to construe meaning or intent.

8. AUTHORITY. Each individual executing this First Amendment on behalf of Tenant represents, warrants and covenants to Landlord that (a) Tenant is duly formed and authorized to do business in the state of its incorporation, (b) such person is duly authorized to execute and deliver this First Amendment on behalf of Tenant in accordance with authority granted under the organizational documents, and (c) Tenant is bound under the terms of this First Amendment.

9. ATTORNEY FEES. If any lawsuit is commenced to enforce any of the terms of this First Amendment, the prevailing Party will have the right to recover its reasonable attorney's fees and costs of suit from the other Party.

10. COUNTERPARTS. This First Amendment may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this First Amendment to be executed by their properly authorized representatives as of the date and year first above written.

TENANT

MARINE SPILL RESPONSE CORPORATION, a Tennessee not-for-profit corporation

DocuSigned by:
Patrick Doe 7/25/2023
By: Patrick Doe Print Name
Its: Contract Administrator

LANDLORD

SURPLUS PROPERTY AUTHORITY OF THE CITY OF RICHMOND, a public body corporate and politic

DocuSigned by:
Eduardo Martinez 7/26/2023
By: Eduardo Martinez
Eduardo Martinez, Mayor /Executive Director

ATTEST

DocuSigned by:
Pamela Christian
Pamela Christian
Pamela Christian, Authority Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

DocuSigned by:
DA For
By: David J. Aleshire
David J. Aleshire Authority Counsel