

FIFTH AMENDMENT TO LEASE

This Fifth Amendment to Lease ("Amendment") is made and entered into this ^{February}~~January~~ 21 day of ~~January~~, 2019 by and between FP Gateway 270, LLC, a New Jersey limited liability company authorized to conduct business in the State of Maryland, successor-in-interest to Forsgate Venture II L.L.C. ("Landlord"), and Montgomery County, Maryland, a political subdivision of the State of Maryland ("County").

WITNESSETH:

WHEREAS, Landlord (through its predecessor-in-interest) and the County are parties to a Lease dated September 21, 2005, as amended by First Amendment to Lease dated October 25, 2005, Second Amendment to Lease dated December 17, 2008, Third Amendment to Lease dated June 25, 2010, and Fourth Amendment to Lease ("Fourth Amendment") dated December 16, 2011 (collectively, the "Lease"), whereby the County leases from Landlord certain premises containing approximately Nine Thousand, Eight Hundred Twenty-Three (9,823) square feet of warehouse space, known as Suite 300 (the "Premises"), located at Building Two, 22610 Gateway Center Drive, Clarksburg, Maryland (the "Building"), for a term that expired on November 23, 2018 (the "Current Term"); and

WHEREAS, Landlord and the County wish to amend the Lease by extending the term by an additional sixty (60) months and to otherwise modify the Lease.

NOW, THEREFORE, in consideration of the mutual covenants herein made, Landlord and the County hereby enter into this Amendment to Lease and state as follows:

1. Recitals. The foregoing recitals are incorporated herein by this reference.
2. Capitalized Terms. Unless otherwise defined herein, all capitalized terms in this Amendment shall have the same meaning as they have been assigned in the Lease.
3. Term. Notwithstanding any provision of the Lease to the contrary, the Term shall be extended by an additional sixty (60) months (the "New Extension Term") following the expiration of the Current Term. The New Extension Term commenced on November 24, 2018 and shall expire on November 23, 2023.
4. Premises. The County accepts the Premises in its "As Is" condition. Except as may be set forth in the Lease, Landlord is under no obligation to make any structural or other alterations, decorations, additions, improvements, renovations or other changes in or to the Premises. Provided the Lease is in full force and effect and Tenant shall not have elected to exercise any termination right, Landlord shall provide Tenant with an improvement allowance as hereinafter described as a contribution towards the third-party costs paid by Tenant to make alterations or improvements to the Premises in accordance with the provisions of the Lease following the date of this Amendment ("Tenant Improvements"). Upon submission to Landlord of (i) invoices for Tenant Improvements that have been completed, (ii) full and final lien waivers from all contractors, subcontractors and suppliers furnishing labor or materials with respect to such Tenant Improvements, and (iii) evidence that any new or amended certificate of occupancy necessary as a result of such Tenant Improvements has been issued, Landlord shall reimburse County for the costs of such Tenant Improvements in an amount ("Landlord's Contribution") equal to the lesser of (i) \$176,814.00 or (ii) the amount of the contractor invoices submitted by

County; provided, however, that Landlord shall have no obligation to make payment of Landlord's Contribution with respect to any request for payment received later than December 23, 2019, time being of the essence, or at any time that County is in breach of its obligations under the Lease beyond any applicable cure period after receipt from Landlord of written notice of such breach in accordance with the terms of the Lease.

5. Rent. During the New Extension Term, the County shall pay Rent in the amounts set forth in the following schedule:

<u>Time Period</u>	<u>Per Square Foot Rate</u>	<u>Annual Rent</u>	<u>Monthly Installment</u>
11/24/18 – 10/23/19	\$15.50	\$152,256.50	\$12,688.04
11/24/19 – 10/23/20	\$15.97	\$156,873.31	\$13,072.78
11/24/20 – 10/23/21	\$16.45	\$161,588.35	\$13,465.70
11/24/21 – 10/23/22	\$16.94	\$166,401.62	\$13,866.80
11/24/22 – 10/23/23	\$17.45	\$171,411.35	\$14,284.28

6. Additional Rent. For the New Extension Term, the County shall continue to pay the County's Share of Taxes and Common Area Expenses pursuant to Section 5 of the Lease, as well as all other additional rent specified in the Lease, except that its obligation with respect to Taxes and Common Area Expenses shall apply only to County's share of the excess (if any) of Taxes or Common Area Expenses in any Computation Year or portion thereof which shall exceed the Taxes or Common Area Expenses (as applicable) incurred by Landlord in the calendar year 2019.

7. Termination Option. Section 7 of the Fourth Amendment shall be deleted and null and void. Tenant's only termination option other than pursuant to Section 12C, Section 12D, Section 14B and Section 22 of the Lease shall be as provided in Section 4F of the Lease.

8. Brokers. The County represents and warrants to Landlord that the County has not dealt with any broker, agent or finder in carrying on the negotiations relating to this Amendment, other than Jones Lang LaSalle Brokerage, Inc. ("Broker"). The Broker shall be paid brokerage commissions pursuant to a separate agreement between Landlord and said Broker. Landlord and the County shall indemnify and hold harmless the other from and against any claims for brokerage or other commission arising by reason of a breach by the indemnifying party of the aforesaid representation and warranty.

9. Ratification. Unless a term or condition of the Lease is expressly contradicted by the terms of this Amendment or modified hereby, all terms and conditions of the Lease shall remain in full force and effect and continue to bind Landlord and the County. In the event that a term of this Amendment is fundamentally inconsistent with a term of the Lease, the terms of this Amendment shall control. The terms of the Lease, as modified hereby, are ratified and affirmed by the parties.

IN WITNESS WHEREOF, the parties hereto set forth their hands and seals as of the date first set forth above.

WITNESS/ATTEST:

LANDLORD:

FP Gateway 270, LLC,
a New Jersey limited liability company

By: The RMR Group LLC, its agent

M Galonka

By: Jennifer F. Francis
Jennifer F. Francis
Senior Vice President

WITNESS/ATTEST:

THE COUNTY:

Montgomery County, Maryland, a body
corporate and politic and a political
subdivision of the State of Maryland

Achienne Conner

By: Fariba Kassiri (SEAL)
Fariba Kassiri
Assistant Chief Administrative Officer
Date: 2/21/19

Recommended:

By: Cynthia Brennerman
Name: Cynthia Brennerman
Title: Director, Office of Real Estate
Date: 2/15/19

Approved as to form and legality:

Office of the County Attorney

By: Neal Anker 2/19/19

Name: Neal Anker
Title: Associate County Attorney
Date: