

## **SECOND AMENDMENT TO LEASE AGREEMENT**

This Second Amendment To Lease Agreement (this "**Amendment**") is made and entered into as of December 21, 2020 (the "**Effective Date**"), by and between Commercenter #3 Limited Liability Company, a Delaware limited liability company ("**Landlord**"), and Victory Packaging, L.P., a Texas limited partnership ("**Tenant**").

### **RECITALS:**

A. Landlord (as successor-in-interest to Commercenter #2 Limited Liability Company, a Colorado limited liability company) and Tenant entered into the Standard Industrial Real Estate Lease, dated December 1, 2014 (the "**Original Lease**"), as amended by the First Amendment to Lease, dated December 1, 2015 (collectively, the "**Lease**").

B. Pursuant to the Lease, Tenant currently leases from Landlord approximately 200,002 square feet of space within the building, located at 19673 East 32<sup>nd</sup> Parkway, Aurora, Colorado 80011, commonly known as Majestic Commercenter Building #3, as more particularly set forth in the Lease (the "**Property**").

C. The parties desire to amend the Lease on the terms and conditions set forth in this Amendment.

### **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 hereto hereby agree as follows:

1. **Recitals; Terms.** The Recitals are an integral part of the agreement and understanding of Landlord and Tenant and are incorporated into this Amendment by this reference. All undefined terms when used herein shall have the same respective meanings as are given such terms in the Lease unless expressly provided otherwise in this Amendment. This Amendment is incorporated into and made a part of the Lease, and any and all references to the Lease hereafter include this Amendment.

2. **Extended Lease Term.** The Lease Term is currently scheduled to expire on April 30, 2021. The Lease Term is hereby extended for a period commencing on May 1, 2021 (the "**Extended Lease Commencement Date**") and shall expire on April 30, 2024 (the "**Extended Lease Expiration Date**"), unless sooner terminated under the terms of the Lease (the "**Extended Lease Term**").

3. **Base Rent.** Commencing as of the Extended Lease Commencement Date, Tenant will pay Landlord the monthly Base Rent due under the Lease, as follows:

<u>Lease Month</u>	<u>Monthly Installment of Base Rent</u>
May 1, 2021 through April 30, 2022	\$80,000.80
May 1, 2022 through April 30, 2023	\$82,000.82
May 1, 2023 through April 30, 2024	\$84,050.84

4. **Extension Options and Calculation of Option Rent.**

- (A) The first and second sentences of Section 2.05(a) of the Lease are hereby deleted in their entirety and replaced with the following:

Landlord hereby grants to Tenant one option (the “**Option**”) to extend the Lease Term for an additional term of three years (the “**Extension**”), on the same terms and conditions as set forth in this Lease, but at an increased Base Rent as set forth below and without any additional Options other than those granted in this Section 2.05. The Option shall be exercised only by written notice delivered to Landlord not more than nine months and not less than six months before the expiration of the Extended Lease Term.

- (B) Section 2.05(e)(1) of the Original Lease is hereby deleted in its entirety and replaced with the following:

During the Extension of the Lease Term, the Base Rent shall be increased on the first day of the 1<sup>st</sup>, 13<sup>th</sup> and 25<sup>th</sup> months of the Extension (each a “**Rental Adjustment Date**”) by a factor of 2.5% of the monthly Base Rent payable immediately prior to the applicable Rental Adjustment Date.

5. **Holdover.** Notwithstanding anything in Section 2.04 of the Original Lease to the contrary, unless Landlord has executed a lease with another tenant prior to the expiration or earlier termination of the Extended Lease Term for any portion of the Property and provided written notice of such lease to Tenant; for the first three months of any holdover during any tenancy at sufferance pursuant to Section 2.04 of the Original Lease, (A) the Base Rent shall be payable at a monthly rate equal to 100% of the Base Rent applicable immediately before the expiration or earlier termination of the Extended Lease Term, and (B) Tenant shall not be liable for any consequential damages due to its holdover (such as payments of any kind to a third party prospective tenant resulting from Landlord’s inability to deliver the space due to Tenant’s holdover).

6. **Security Deposit.** The Security Deposit in Section 1.07 of the Original Lease is hereby amended to be \$0, and Landlord shall refund the original Security Deposit amount of \$40,256.42 to Tenant within 30 days after the Effective Date.

7. **Management Fee.** Notwithstanding anything to the contrary in Section 4.05(c) of the Original Lease to the contrary, any management fee to Landlord or its affiliate or allowance to Landlord for Landlord’s supervision and management of the Project and the Common Areas shall not exceed 2% of the Base Rent for the calendar year.

8. **Reserves.** Section 4.05(g) of the Original Lease is hereby deleted in its entirety and replaced with the following:

Landlord agrees that the monthly amounts payable by Tenant during the Lease Term, as extended, for the reserves identified in Section 4.05(c) of this Lease shall not exceed \$5,000.00 broken down as follows: (i) three thousand three hundred thirty three dollars

(\$3,333.00) per month for roof replacement; (ii) one thousand dollars (\$1,000.00) per month for exterior painting of the Building; and (iii) six hundred sixty seven dollars (\$667.00) per month for asphalt slurry sealing and re-striping.

9. **Tenant Improvement Allowance.** Landlord shall provide Tenant with an allowance of up to a maximum amount of \$40,000 (the “**Tenant Improvement Allowance**”) for the costs related to internal Building repairs and improvements (collectively, the “**Improvements**”). The Tenant Improvement Allowance shall be disbursed by Landlord by check for the total costs relating to the Improvements. Tenant’s request for such disbursement shall be in writing and shall include the total cost of the Improvements, including proof of payment for the labor and materials related to the Improvements. Landlord shall only be obligated to disburse the Tenant Improvement Allowance to the extent costs are incurred by Tenant for the Improvements. In no event shall Landlord be obligated to make disbursements in a total amount which exceeds the Tenant Improvement Allowance. Notwithstanding the foregoing, Tenant shall have no claim to any unused portion of the Tenant Improvement Allowance still remaining after the date which is 180 days after the Effective Date.

10. **Tenant's Acceptance of the Property.** Landlord and Tenant acknowledge that Tenant has been occupying the Property pursuant to the Lease and Tenant shall continue to accept the Property in its presently existing, “as is” condition. Tenant acknowledges that Landlord has made no representation or warranty with regard to the condition of the Property or the suitability thereof for Tenant's business.

11. **Attorney Fees.** If any action is brought because of any breach of or to enforce or interpret any of the provisions of this Amendment, the prevailing party in such action shall be entitled to recover from the other party those attorneys' fees and other charges recoverable under the applicable provisions of the Lease. This Section shall survive the expiration or prior termination of the Lease and not be deemed merged with any judgment rendered on the Lease.

12. **Brokers.** The parties recognize that the only brokers involved in the negotiation of this Amendment is Majestic Realty Co., as Landlord’s broker, and Cushman & Wakefield of Colorado, Inc. as Tenant’s broker, and agree that Landlord shall be solely responsible for the payment of any brokerage commission to such brokers. Each party represents and warrants to the other that they have not dealt with any other broker in connection with the negotiation and consummation of this Amendment and they each know of no other real estate broker, agent or finder who is, or might be, entitled to a commission or compensation 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, damages, lawsuits, judgments, and costs and expenses (including, without limitation, reasonable attorneys' fees and costs) with respect to any leasing commission or equivalent compensation alleged to be owing on account of the indemnifying party's dealings with any other real estate broker or agent.

13. **No Other Modifications; Binding Effect.** Except as expressly provided in this Amendment, all provisions of the Lease remain in full force and effect, and Landlord and Tenant hereby ratify and confirm each and every provision thereof. In the event of any conflict between this Amendment and the Lease, this Amendment shall control. The provisions of this Amendment shall be binding upon and inure to the benefit of the heirs, representatives, successors and permitted assigns of the parties hereto.

14. **Authority.** The parties represent and warrant that they have the full right and requisite authority to bind the entity on whose behalf they are signing without the consent or approval of any other person or entity and that it has full power, capacity, authority, and legal right to execute and deliver this Amendment and to perform all of its obligations hereunder.

15. **Counterparts.** This Amendment may be executed in any number of original counterparts. Any such counterpart, when executed, shall constitute an original of this Amendment, and all such counterparts when appropriately delivered between the parties together shall constitute one and the same final Amendment. Either party may deliver its signature to the other via facsimile or electronic (PDF) transmission, and any signature so delivered shall be deemed to be effective as an original and binding on the delivering party.

*[Remainder of page intentionally blank; signatures on following page]*

IN WITNESS WHEREOF, the parties have entered into this Amendment as of the Effective Date.

**LANDLORD:**

**COMMERCENTER #3 LIMITED LIABILITY COMPANY,**  
a Delaware limited liability company

By: Majestic Commercenter Buildings II,  
a California general partnership,  
Its: Member

By: Majestic Realty Co.,  
a California corporation,  
Its: Managing Partner

DocuSigned by:  
By: Edward P. Roski, Jr.  
Name: Edward P. Roski, Jr.  
Title: President and Chairman of the Board

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*[Signatures continue on following page]*

**TENANT:**

**VICTORY PACKAGING, L.P.,**  
a Texas limited partnership

DS  
HD

DocuSigned by:  
By: John Stakel  
John D. Stakel  
Senior Vice President

*[End of signatures]*