

## SUBLEASE AGREEMENT

This **Sublease Agreement ("Sublease")** dated as of \_\_\_\_\_, 2024 for reference purposes only is made between the City of Commerce ("**City" or "Sublandlord"**), and \_\_\_\_\_, ("**Subtenant"**).

### Recitals

A. On or about November 25, 1995 the Commerce Community Development Commission, a California public entity ("**Original Landlord**") entered into a written lease with Structural Materials Co., a California corporation for that certain real property located at 7025 Slauson Avenue, Commerce, California (the "**Premises**"), as amended by the Settlement Agreement and Mutual Release dated March 1, 2010, the Assignment and Assumption of Lease dated July 3, 2012, the Letter dated December 7, 2020, the Letter dated February 18, 2021, and the Letter dated November 16, 2021 (collectively, the "**Master Lease**").

B. On July 3, 2012, Structural Materials Co. and Beacon Sales Acquisition, Inc., a Delaware corporation ("**Beacon**"), entered into an Assignment and Assumption of Lease ("**2012 Assignment**") whereby Beacon Sales Acquisition, Inc. assumed all of Structural Materials Co.'s right, title and interest as Lessee under the Master Lease.

C. On or about June 2, 2022 Beacon and City entered into an Assignment and Assumption of Lease ("**2022 Assingment**") whereby City assumed all of Beacon's right, title and interest as Lesse under the Master Lease.

D. The City of Commerce through the above Assignment and Assumption of Lease Agreements is the current Lessee under the Master Lease.

E. This Agreement is exempt from the California Surplus Land Act pursuant to California Government Code Section 54221(d)(1) because the lease term is less than 15 years.

NOW, THEREFORE, in consideration of the foregoing Recitals and the terms and conditions set forth below and for such good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged the Parties hereto agree as follows:

### Section 1. Sublease

(a) Sublandlord subleases to Subtenant on the terms and conditions in this Agreement the entire Premises subject to the terms of the Master Lease except as specifically provided in this Agreement. A copy of the Master Lease is attached and incorporated in this Sublease as **Exhibit A**.

(b) Subtenant represents that it has read, understands and acknowledges the terms of the Master Lease. The following terms of the Master Lease are particularly brought to the attention of Subtenant:

- (1) Section 6.2 which requires Subtenant to pay all utilities for the Premises.
- (2) Section 8.2 which requires Subtenant to keep the Premises in good order and condition, and make the necessary repairs, interior and exterior, structural and non-structural, so the Premises is maintained in good condition suitable for use for the Permitted Uses.
- (3) Sections 10-3 to 10-6 which requires the Subtenant to maintain liability and property fire and casualty insurance on the Premises.
- (4) Section 13.1 which requires the Subtenant to surrender the Premises to Landlord in good order, condition and repair, and in as safe and clean condition as practicable, reasonable wear and tear and acts of God excepted, and free and clear of all liens and encumbrances.

### **Section 2. Warranty by Sublandlord.**

Sublandlord warrants to Subtenant that the Master Lease has not been amended or modified except as expressly set forth in this Sublease; that Sublandlord is not now, and as of the commencement of the Term (defined in this Sublease) of this Sublease will not be, in default or breach of any of the provisions of the Master Lease; and that Sublandlord has no knowledge of any claim by Master Landlord that Sublandlord is in default or breach of any of the provisions of the Master Lease.

### **Section 3. Term.**

This Sublease shall begin on \_\_\_\_\_, 2024 ("**Commencement Date**") and shall continue on a month-to-month basis until further notice of Sublandlord or Subtenant. Either Party may terminate this Sublease upon a 15-day written notice served on the other party.

### **Section 4. Rent.**

(a) Rent. Subtenant will pay to Sublandlord as Base Rent, without deduction, setoff, notice, or demand, the sum of Eighty Five Thousand and No/100 Dollars (\$85,000) per month for the Term of the lease, in advance on the first day of each month. If the Term commences on a date other than the first of the month, the rent shall be prorated based on the number of days in the month.

(b) Utilities. As additional rent ("Additional Rent") Subtenant shall pay for all utilities and/or services supplied to the Premises.

(c) The provisions of section 6.1 of the Master Lease shall not be applicable to this Sublease. Instead, the Subtenant shall, as Additional Rent, pay all property taxes and assessments imposed on the Premises, prorated for the term of the Sublease.

(d) In accordance with Sections 10-3 through 10-6 of the Master Lease Subtenant shall, as Additional Rent, provide at its own cost and expense liability and fire and casualty insurance for the Premises.

(e) As provided in section 11.4 of the Master Lease, Subtenant may not prepay rent in excess of three months, and Sublandlord may not accept prepayment of rent in excess of three months.

(f) The rent provisions of Sections 4.3 and 4.4 of the Master Lease shall not be applicable to the Sublease.

### **5. Security Deposit.**

Subtenant will deposit with Sublandlord on execution of this Sublease the sum of \_\_\_\_\_ as security for Subtenant's faithful performance of Subtenant's obligations under this Sublease ("**Security Deposit**"). If Subtenant fails to pay rent or other charges when due under this Sublease, or fails to perform any obligations under this Sublease, Sublandlord may use any portion of the Security Deposit for the payment of any rent or other amount then due and unpaid, for the payment of any other sum for which Sublandlord may become obligated because of Subtenant's default or breach, or for any loss sustained by Sublandlord as a result of Subtenant's default or breach. If Sublandlord uses any portion of the Security Deposit, Subtenant will, within ten (10) days after written demand by Sublandlord, restore the Security Deposit to the full amount originally deposited. Subtenant's failure to do so will constitute a default under this Sublease. Sublandlord will not be required to keep the Security Deposit separate from its general accounts, and will have no obligation or liability for payment of interest on the Security Deposit. If Sublandlord assigns its interest in this Sublease, Sublandlord will deliver to its assignee as much of the Security Deposit as Sublandlord then holds. Within thirty (30) days after the Term has expired or Subtenant has vacated the Premises or any final adjustment pursuant to Subsection 4(b) of this Sublease has been made, whichever occurs last, and provided that Subtenant is not then in default under this Sublease, the Security Deposit, or as much as remains that has not been applied by Sublandlord, will be returned to Subtenant or to the last assignee, if any, of Subtenant's interest under this Sublease.

### **Section 6. Use of Premises.**

The Premises will be used and occupied only for \_\_\_\_\_ and for no other use or purpose.

### **Section 7. Assignment and Subletting.**

Subtenant will not assign this Sublease or further sublet all or any part of the Premises without the prior written consent of Sublandlord.

### **Section 8. Other Provisions of Sublease.**

All applicable terms and conditions of the Master Lease are incorporated into and made a part of this Sublease as if Sublandlord were the Original Landlord, Subtenant the lessee. Subtenant assumes and agrees to perform the lessee's obligations under the Master Lease during the Term to the extent that these obligations are applicable to the Premises or as otherwise

provided in this Agreement. However, the obligation to pay rent and operating costs to Master Landlord under the Master Lease will be considered performed by Subtenant to the extent and in the amount rent and operating costs are paid to Sublandlord in accordance with Section 4 of this Sublease. Subtenant will not commit or suffer any act or omission that will violate any of the provisions of the Master Lease. Sublandlord will exercise due diligence in attempting to cause Master Landlord to perform its obligations under the Master Lease for the benefit of Subtenant. If the Master Lease terminates, at the option of Master Landlord, this Sublease will terminate and the parties will be relieved of any further liability or obligation under this Sublease. Regardless, if the Master Lease gives Sublandlord any right to terminate the Master Lease in the event of the partial or total damage, destruction, or condemnation of the Master Premises or the building or project of which the Master Premises are a part, the exercise of this right by Sublandlord will not constitute a default or breach.

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### **Section 9. Attorney Fees.**

If either party commences an action against the other in connection with this Sublease, the prevailing party will be entitled to recover costs of suit and reasonable attorney fees.

### **Section 10. No Broker**

Sublandlord and Subtenant each warrant that they have not dealt with any real estate broker in connection with this transaction. Sublandlord and Subtenant each agree to indemnify, defend, and hold the other harmless against any damages incurred as a result of the breach of the warranty contained in this Sublease.

### **Section 11. Indemnity**

Landlord shall not be liable for, and Tenant shall defend (unless Landlord waives its right to such defense, and in any event with counsel satisfactory to Landlord), indemnify and protect Landlord from any claim, demand, liability, judgment, award, fine, mechanics' lien or other lien, loss, damage, expense, charge or cost of any kind or character (including actual attorney fees and court costs) arising directly or indirectly from (a) any labor dispute involving Tenant or its contractors or agents, (b) the construction, repair, alteration, improvement, use, occupancy or enjoyment of the Premises by Tenant, its agents, employees, contractors or invitees, or (c) a breach of Tenant's obligations hereunder (hereinafter referred to as "Claims"); provided, however, Tenant shall have no obligation to defend, indemnify or protect Landlord from Claims to the extent caused by the negligent, willful or criminal acts of Landlord and/or its agents. Tenant's obligations under this Section 7.1 shall survive the expiration or earlier termination of this Lease.

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### **Section 12. Notices.**

All notices and demands that may be required or permitted by either party to the other will be in writing. All notices and demands by the Sublandlord to Subtenant will be sent by

United States Mail, postage prepaid, addressed to the Subtenant at the Premises, and to the address in this Sublease below, or to any other place that Subtenant may from time to time designate in a written notice to the Sublandlord. All notices and demands by the Subtenant to Sublandlord will be sent by United States Mail, postage prepaid, addressed to the Sublandlord at the address in this Sublease, and to any other person or place that the Sublandlord may from time to time designate in a written notice to the Subtenant.

To Sublandlord:

City of Commerce  
Attention: City Manager

Commerce, CA

To Subtenant: \_\_\_\_\_

### **Section 13. Successors and Assigns.**

This Sublease will be binding on and inure to the benefit of the parties to it, their heirs, executors, administrators, successors in interest, and assigns.

### **Section 14. Attornment.**

If the Master Lease terminates, Subtenant will, if requested, attorn to Master Landlord and recognize Master Landlord as Sublandlord under this Sublease. However, Subtenant's obligation to attorn to Master Landlord will be conditioned on Subtenant's receipt of a nondisturbance agreement.

### **Section 15. Entry.**

Sublandlord reserves the right to enter the Premises on reasonable notice to Subtenant to inspect the Premises or the performance by Subtenant of the terms and conditions of this Sublease and, during the last month of the Term, to show the Premises to prospective subtenant's. In an emergency, no notice will be required for entry.

### **Section 16. Late Charge and Interest.**

If Sublandlord has not received any installment of Rent within five (5) days after that amount is due, Subtenant will pay five percent (5%) of the delinquent amount, which is agreed to represent a reasonable estimate of the cost incurred by Sublandlord. In addition, all delinquent

amounts will bear interest from the date the amount was due until paid in full at five percent per annum.

**Section 17. Entire Agreement.**

This Sublease sets forth all the agreements between Sublandlord and Subtenant concerning the Premises, and there are no other agreements either oral or written other than as set forth in this Sublease.

**Section 18. Time of Essence.**

Time is of the essence in this Sublease.

**Section 19. Consent of Original Landlord**

As provided in section 11.3 and 11.4 of the Master Lease the consent of Original Landlord is not required for this Sublease Agreement.

**Section 20. Governing Law.**

This Sublease will be governed by and construed in accordance with California law.

In Witness Whereof, the parties have executed this Sublease Agreement as of the dates below their signatures.

SUBTENANT:

SUBLANDLORD: City of Commerce

By:

\_\_\_\_\_

By:

\_\_\_\_\_

, Mayor

EXHIBIT A  
Master Lease