

## SECOND AMENDMENT TO LICENSE AGREEMENT

THIS SECOND AMENDMENT TO LICENSE AGREEMENT ("**Second Amendment**") dated as of \_\_\_\_\_, 2018 (the "**Effective Date**") is entered into by and between the CITY OF ALAMEDA, a charter city and municipal corporation ( "**City**" or "**Licensor**") and AMBER KINETICS, INC., a California corporation ("**Licensee**"), with reference to the following:

### RECITALS

A. Licensor and Licensee entered into that certain License Agreement dated as of April, 2014 whereby Licensor granted Licensee a license (the "**License**") to occupy that certain unimproved lot located at 641 West Red Line Avenue, Alameda, California, consisting of approximately 10,000 square feet of land (the "**License Area**") which License Area was expanded and the Term extended pursuant to that certain Second Amendment to License Agreement dated as of January, 2016 (collectively the "**License Agreement**"); and

B. Licensee has requested and Licensor has agreed to further extend the Term upon the terms and conditions and as otherwise as set forth in this Second Amendment.

NOW, THEREFORE, for good and valuable consideration, it is mutually agreed by and between the undersigned parties as follows:

### AGREEMENT

1. Recitals. The Recitals set forth above are incorporated herein as though set forth in full herein.

2. Extended Term. The Term of the License shall be extended for twenty-four (24) months and shall terminate at midnight on May 4, 2020.

3. Amendment to License Fees. Commencing on May 5, 2018 the fee for use and occupancy of the License Areas shall be Three Thousand Six Hundred and 00/100 Dollars (\$3,600.00) per month, which shall be paid in accordance with Article 4 of the License Agreement (as amended) to Licensee's property manager, RiverRock Real Estate Group, Inc., 950 West Mall Square, Room 239 Alameda, CA 94561.

4. Miscellaneous.

(a) This Second Amendment sets forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements.

(b) Except as herein modified or amended, the provisions, conditions and terms of the License shall remain unchanged and in full force and effect.

(c) In case of any inconsistencies between the provisions of the License and this Second Amendment, the provisions of this Second Amendment shall govern and control.

(d) As of the Effective Date of this Second Amendment, Licensee represents and warrants to Licenser that: (a) there are no defaults on the part of Licenser under the License and there are no events currently existing (or with the passage of time, giving of notice or both, which would exist) which would be deemed a default of Licenser, and (b) there are no claims against Licenser, including without limitations, claims of credit, offset or deduction from or against the rent due under the License.

(e) Capitalized terms used in this Second Amendment shall have the same definitions as set forth in the License Agreement to the extent that such capitalized terms are defined therein and not redefined in this Second Amendment.

(f) Licensee hereby represents to Licenser that Licensee has dealt with no broker in connection with this Second Amendment, other than Cushman & Wakefield California, Inc. (representing Licenser). Licensee agrees to defend, indemnify and hold Licenser harmless from any and all claims of any brokers claiming to have represented Licensee in this Second Amendment. Licenser hereby represents to Licensee that Licenser has dealt with no broker in connection with this Second Amendment, other than Cushman & Wakefield California, Inc.. Licenser agrees to defend, indemnify and hold Licensee harmless from all claims of any brokers claiming to have represented Licenser in connection with this Second Amendment.

(g) If Licensee is a corporation, partnership, trust, association or other entity, Licensee and each person executing this Second Amendment on behalf of Licensee does hereby covenant and warrant that (a) Licensee is duly incorporated or otherwise established or formed and validly existing under the laws of the state or county of incorporation, establishment or formation, (b) Licensee has and is duly qualified to do business in California, (c) Licensee has full corporate, partnership, trust, association or other power and authority to enter into this Second Amendment and to perform all of Licensee's obligations hereunder and (d) each person (and all of the persons if more than one signs) signing this Second Amendment on behalf of Licensee is duly and validly authorized to do so. At execution hereof and upon Licenser's request, Licensee shall provide Licenser with evidence reasonably satisfactory to Licenser confirming the foregoing representations and warranties.

(h) Licenser acknowledges that its use of the License Area and any Alterations thereto shall comply with the terms, conditions and requirements of: (a) the Environmental Impact Report for Alameda Point and the Mitigation Monitoring and Reporting Program adopted pursuant thereto; (b) the Master Infrastructure Plan; (c) the Town Center and Waterfront Precise Plan (as applicable); and (d) the Alameda Point Transportation Demand Management Plan.

(i) This Second Amendment may be executed in multiple counterparts each of which is deemed an original but together constitutes one and the same instrument. This Second Amendment may be transmitted in "pdf" format and each party has the right to rely upon a pdf counterpart of this Second Amendment signed by the other party to the same extent as if such party had received an original counterpart.

IN WITNESS WHEREOF, Licensor and Licensee have duly executed this  
Second Amendment as of the Effective Date set forth above.

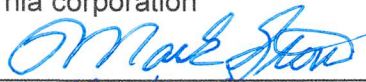
**LICENSOR:**


CITY OF ALAMEDA,  
a charter city and municipal corporation

By: \_\_\_\_\_  
Jill Keimach  
City Manager

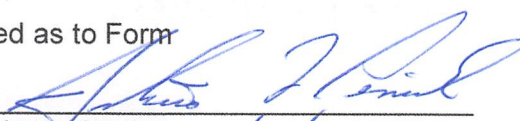
**LICENSEE:**

AMBER KINETICS, INC.  
a California corporation

By:   
Name: Mark Stout  
Its: Vice President, Project Development

By:   
Name: Treasurer, CHING PEI LOU  
Its: Treasurer

Approved as to Form

By:   
for Janet C. Kern 2/14/18.  
City Attorney



# CERTIFICATE OF LIABILITY INSURANCE

AMBER-1

OP ID: LM

DATE (MM/DD/YYYY)

10/30/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Sweet & Baker Ins. Brokers Inc 44 Second Street San Francisco, CA 94105-3440 Bruce Callander (415) 512-2110		<b>CONTACT NAME:</b> Sweet & Baker Insur Brkers <b>PHONE (A/C, No, Ext):</b> 415-512-2100 <b>FAX (A/C, No):</b> 415-512-1115 <b>E-MAIL ADDRESS:</b>		
<b>INSURED</b> Amber Kinetics Attn: Bessie Lou 32920 Alvarado-Niles Rd, Ste 250 Union City, CA 94587		<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
		INSURER A : James River Insurance		
		INSURER B : The Hartford		11000
		INSURER C : Kinsale Insurance Co		
		INSURER D :		
		INSURER E :		
INSURER F :				

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			000595894	10/04/2017	10/04/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000 Pollution \$ 1,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> DED <input type="checkbox"/> RETENTION \$ 10,000			000620883	04/18/2017	10/04/2018	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y / N <input type="checkbox"/> N / A						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	Property Ded \$5,000			01000437931	10/22/2017	10/22/2018	Property 2,403,672 RC/Specia

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

10 days notice of cancellation for non-payment of premium and 30 days notice for all other cancellations. City of Alameda and RiverRock Real Estate Group, Inc. is named as additional insured / landlord for the location of Alameda Point, Alameda, CA 94501

**CITY OF ALAMEDA**  
Risk Management

*[Signature]* Date 2-7-18  
Lucretia Aki, City Risk Manager

**CERTIFICATE HOLDER****CANCELLATION**

<b>City of Alameda c/o</b> <b>RiverRock Real Estate Group</b> <b>950 West Mall Square</b> <b>Ste. 239</b> <b>Alameda, CA 94501</b>	<b>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</b>  <b>AUTHORIZED REPRESENTATIVE</b> <i>[Signature]</i> <b>Lou Ann McKenzie</b> <b>415-512-2133</b>
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CITY OF ALAMEDA  
Risk Management

8-9-8  
Lucy A. KIL, City Manager



AMBER-1

OP ID: LM

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Bruce Callander (415) 512-2110

CONTACT NAME: Sweet &amp; Baker Insur Brkers

PHONE (A/C, No, Ext): 415-512-2100

FAX (A/C, No): 415-512-1115

E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A: James River Insurance

INSURER B: The Hartford

11000

INSURER C: Kinsale Insurance Co

INSURER D:

INSURER E:

INSURER F:

INSURED  
Amber Kinetics  
Attn: Bessie Lou  
32920 Alvarado-Niles Rd, Ste 250  
Union City, CA 94587

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## REVISION NUMBER:

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## CERTIFICATE HOLDER

## CANCELLATION

City of Alameda c/o  
RiverRock Real Estate Group  
950 West Mall Square  
Ste. 239  
Alameda, CA 94501

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Lou Ann McKenzie Lou Ann McKenzie  
415-512-2133

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED—AUTOMATIC STATUS WHEN REQUIRED BY WRITTEN CONTRACT OR WRITTEN AGREEMENT

This endorsement modifies insurance provided by the Coverage Part(s) checked below:

- ☐ All Coverage Parts or  
☒ Only the following checked Coverage Part(s)

- ☒ COVERAGE PART A - COMMERCIAL GENERAL LIABILITY  
N/A COVERAGE PART B - CONTRACTOR'S POLLUTION LIABILITY  
N/A COVERAGE PART C - PROFESSIONAL LIABILITY  
N/A COVERAGE PART D - SITE ENVIRONMENTAL LIABILITY  
N/A COVERAGE PART E - PRODUCTS POLLUTION LIABILITY  
N/A COVERAGE PART F - OTHER

Solely with respect to coverage afforded by the Coverage Part(s) checked above:

**SECTION II – Who Is An Insured** is amended to include as an additional insured any person or organization you are required to include as an additional insured on this Policy by written contract or written agreement in effect during this "policy period" and executed prior to the "occurrence" of any "bodily injury" or, "property damage" but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by:

1. Your acts or omissions, or
2. The acts or omissions of those acting on your behalf.

Liability for the above acts or omissions includes the liability you are required to assume in a written contract or written agreement with an additional insured that is specifically related to "your work", provided that assumption of the additional insured's liability is permitted by law.

**The insurance provided to the additional insured(s) under this endorsement is limited as follows:**

1. In the event that the Limits of Insurance provided by this Policy exceed the Limits of Insurance required by the written contract or written agreement, the insurance provided by this endorsement shall be limited to the Limits of Insurance required by the written contract or written agreement. This endorsement shall not increase the Limits of Insurance stated in the Declarations.
2. Any coverage provided by this endorsement to an additional insured(s) shall be excess over any other valid and collectible insurance available to the additional insured whether primary, excess, contingent or on any other basis unless a written contract or written agreement specifically requires that this insurance apply on a primary and noncontributory basis.
3. With respect to the insurance afforded to the additional insured(s), the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

- a. All work, including materials, parts or equipment furnished in connection with such work, (other than service, maintenance or repairs) on the project to be performed by

CITY OF ALAMEDA  
Risk Management

Date 2-7-18  
Lucretia Akil, City Risk Manager

or on behalf of the additional Insured(s) at the location of the covered operations, has been completed; or

- b. That portion of "your work" out of which the "bodily injury" or "property damage" arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project;

provided that item 3.a. and 3.b. above shall not apply if such coverage is required by written contract or written agreement in effect during this "policy period" and executed prior to the "occurrence" of any "bodily injury" or "property damage".

**ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.**

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RECEIVED  
FEB 10 1988  
FBI - NEW YORK  
FBI - NEW YORK  
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