

THIRD AMENDMENT TO LEASE

This **THIRD AMENDMENT Lease Amendment** is made and entered into and shall be effective as of the ____ day of August, 2020, by and between the City of Columbia, Missouri, a municipal corporation (hereinafter referred to as "**Landlord**"), and International Business Machines Corporation, a New York corporation, (hereinafter referred to as "**Tenant**").

WHEREAS, Columbia Area Jobs Foundation ("**CAJF**") and Tenant originally entered into a Lease dated May 14, 2010 (the "**Lease**") for 89,145 rentable square feet of rentable area located at 2810 Lemone Industrial Blvd., Colombia, MO 65201 (the "**Building**") as amended by Letter Agreement dated May 27, 2010 and Second Amendment to Lease dated May 28, 2010, Supplemental Agreement dated December 28, 2010 and Amendment to Supplemental Agreement, (undated) (the "**Lease**") which Lease was assigned by CAJF to Landlord ; and

WHEREAS, Landlord and the Tenant desire to amend the term of the Lease as set forth herein;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Landlord and Tenant agree as follows:

1. Section 3.02 of the Lease is amended to read as follows:

Section 3.02. **EXTENDED TERM(S)**. Tenant shall have the option to extend the term of this Lease for one (1) three (3) year term (the First Extended Term) with two (2) additional one (1) year extensions (referred to as the "**Second Extended Term**" and "**Third Extended Term**"). Said option for the First Extended Term shall be exercised by execution of this Lease Amendment by Landlord and Tenant. The Second Extended Term and Third Extended Term may be exercised by Tenant giving written notice to Landlord at least six (6) months prior to the expiration of the previous extended term for which Tenant elects to exercise an option. The First Extended Term shall be upon the same covenants, agreements, provisions and conditions that are contained herein for the Initial Term, except as expressly provided herein to the contrary and except for provisions that are inapplicable to the First Extended Term. Rent consisting of Fixed Rent and Additional Rent shall be as stated in Article 4, as amended.

2. Section 4.02 of the Lease shall be amended to read as follows:

Section 4.02. **FIRST EXTENDED TERM FIXED RENT.**

(i) The First Extended Term Rent (Fixed Rent and Additional Rent) payable for each calendar month during the first three (3) years of the Extended Term shall be equal to "x" minus "q" plus "y" plus "r" (x-q+y+r), established as follows:

“x” shall be One Hundred Thousand Dollars (\$100,000);
“q” shall be the Qualified Jobs Credit (hereinafter defined) for that month;
“y” shall be the Additional Rent for that month as defined in Section 4.03; and
“r” shall be a monthly Transition Reserve Payment (“TRP”) of Twelve Thousand Dollars (\$12,000) per month. The TRP shall be held by the City in escrow and distributed as set forth herein.

(ii) The Rent payable for each of the Second Extended Term and the Third Extended (Fixed Rent and Additional Rent) shall be equal to “x” minus “q” plus “y” minus “r” (x-q+y-r), established as follows:

“x” shall be One Hundred Thousand Dollars (\$100,000);
“q” shall be the Qualified Jobs Credit (hereinafter defined) for that month;
“y” shall be the Additional Rent for that month as defined in Section 4.03; and
“r” shall be the sum of Twelve Thousand Dollars (\$12,000), which shall be paid by the Landlord to Tenant out of the TRP escrow or credited to any amounts due by Tenant to the Landlord for the Second Extended Term or Third Extended Fixed Rent, as may be applicable. Under no circumstance shall the Landlord be obligated to pay the TRP directly to Tenant if Tenant is in default in payment beyond the periods of notice and grace provided in the Lease for the Second Extended Term Fixed Rent or Third Extended Term Fixed Rent or any other payments due to the Landlord under the Lease. It being the express intent of the parties that the TRP shall be utilized first as a credit against any amounts due and owing by Tenant to Landlord under the terms of the Lease.

(iii) The “**Qualified Jobs Credit**” shall be an amount equal to the number of Tenant’s employees holding Qualified Jobs on the last day of the preceding quarter during the First Extended Term, the Second Extended Term or the Third Extended multiplied by One Hundred Six and 67/100 Dollars (\$166.67) up to a maximum of six hundred (600) employees during each calendar month of each of the extended terms.

(a) The computation of the number of Qualified Jobs Credit to which the Tenant is entitled for a particular month shall be determined on a quarterly basis and made as soon as reasonably possible after the close of the preceding quarter. For illustrative purposes, if the number of Qualified Jobs on the last day of the preceding quarter equals or exceeds six hundred (600), then the Qualified Jobs Credit for determining the Fixed Rent for the First Extended Term, the Second Extended Term and the Third Extended Term shall be \$100,000 for each month in the subsequent quarter. If the number of Qualified Jobs on the last day of the preceding quarter is three hundred twenty-five (325), then the Qualified Jobs Credit for determining the Fixed Rent for the First Extended Term, the Second Extended Term and the Third Extended shall be \$54,167.75.

(b) The Tenant agrees to furnish written documentation on the number of Qualified Jobs at the end of each quarter during the First Extended Term, the Second Extended Term and the Third Extended Term in order to verify the Tenant's eligibility for the Qualified Jobs Credit for any particular month during the foregoing extended terms. The parties agree that such written documentation shall be limited to a written statement from Tenant reporting the number of Qualified Jobs on the last day of each quarter.

3. Except as expressly set forth herein, the remaining terms of the Lease shall remain in full force and effect.

IN WITNESS WHEREOF, this Third Amendment to Lease has been executed by the duly authorized representatives of the parties and shall be effective as of the date first above written.

**LANDLORD:
CITY OF COLUMBIA:**

By: _____
John Glascock, City Manager

Date: _____

ATTEST:

Sheela Amin, City Clerk

**TENANT:
INTERNATIONAL BUSINESS
MACHINES CORPORATION:**

By: _____
Printed Name: JACK ZAHNISER
Title: SR. PROGRAM MGR
Date: AUG. 4, 2020

WITNESS:

Title: Vice-President

Approved as to form:

City Counselor