

FIRST AMENDMENT TO LEASE AGREEMENT No. 28380
Lease of Space at 8040 W. Doe Avenue, Visalia, CA
For Tulare County Department of Child Support Services

THIS FIRST AMENDMENT TO LEASE AGREEMENT (the "Amendment") is entered into as of May 1, 2023, by and between **GUILLON, INC.**, a California Corporation (the "LESSOR") and the **COUNTY OF TULARE**, a political subdivision of the State of California (the "COUNTY"). The LESSOR and the COUNTY are each a "Party" and together are the "Parties" to this Amendment and the "Lease Agreement" referred to below, and which Amendment is made with respect to the following:

WHEREAS, the LESSOR owns the real property located at 8040 W. Doe Avenue in the City of Visalia, County of Tulare, California, and more particularly described in **Exhibit A**, attached to the Lease Agreement, (the "Property"), which Property contains an existing building with approximately 73,500 square feet of leasable office and warehouse space; and

WHEREAS, the COUNTY is the Lessee of a portion of the Property under that certain Lease Agreement, Tulare County Agreement No. 28380, dated November 1, 2017, (the "Lease Agreement") for the lease of 45,080 square feet of office space, together with the non-exclusive use of all onsite parking stalls and assumption of lease for offsite parking dated April 14, for its Department of Child Support Services ("DCSS"); and

WHEREAS, the county contends DCSS's federal and state funding was significantly reduced in fiscal year 2020/2021 and on July 16, 2021, as a result of DCSS's reduced funding, the COUNTY invoked Paragraph 14.18 of the Lease Agreement and reduced its rented space in the Premises from 45,080 square feet to 26,022 square feet and reduced its rent accordingly from \$70,454.31 to \$41,137.94 per month; and

WHEREAS, the LESSOR disputes whether DCSS's federal and state funding was significantly reduced, disagreed with the COUNTY's reduction of space and rent pursuant to Paragraph 14.18 of the Lease Agreement, and subsequently filed a lawsuit against the COUNTY on March 17, 2022, entitled *Guillon, Inc., etc. v. County of Tulare, etc., et al.*, Tulare County Superior Court Case No. VCU290846 (the "Lawsuit"); and

WHEREAS, the COUNTY and the LESSOR have agreed that as part of the resolution of said Lawsuit that the Lease Agreement is to be amended to (a) extend the term of the Lease Agreement to twelve (12) years effective May 1, 2023 (b) decrease the monthly rent payable by the COUNTY for the term of the Lease Agreement; (c) update the wording of Paragraph 14.18 of the Lease Agreement; and (d) include an option for the COUNTY to purchase the Property from the LESSOR, all of which are subject to the amended terms and conditions set forth below. Except as modified by this Amendment, in all other aspects the Lease Agreement remains in full force and effect.

ACCORDINGLY, THE PARTIES AGREE AS FOLLOWS:

1. Paragraph 2.1 of the Lease Agreement is amended as of May 1, 2023 to read, as follows:

2.1 Lease. The LESSOR leases to the COUNTY, and the COUNTY leases from the LESSOR, a portion of the real property located at 8040 W. Doe Avenue, Visalia, CA, consisting of 26,022 square feet of office space together with the non-exclusive use of all onsite parking stalls, all more particularly described in Exhibit A-1 dated May 1, 2023 and attached to this Amendment (the "Premises").
2. Paragraph 2.2 of the Lease Agreement is deleted in its entirety and replaced as follows effective May 1, 2023:

2.2 Term: The term shall commence on May 1, 2023 upon approval of this Amendment by the Tulare County Board of Supervisors, hereinafter referred to as the "Effective Date". The COUNTY will be entitled to exclusive possession of the Premises leased pursuant to the Lease Agreement, as amended. This lease term shall terminate on April 30, 2035 subject to the remaining terms and conditions of the Lease Agreement.
3. Paragraph 3.1.2 of the Lease Agreement is deleted in its entirety and replaced as follows effective May 1, 2023:

3.1.2 Base Monthly Rent: As of May 1, 2023 and on the first day of each month thereafter, the COUNTY shall pay to the LESSOR the sum of SIXTY THOUSAND DOLLARS (\$60,000) per month, payable in advance. Any partial month shall be prorated at the rate of 1/30 of the monthly rent per day. On October 31, 2029, the base monthly rent shall be reduced by seven cents (\$0.07) per square foot per month.
4. Paragraph 14.27 is added to the Lease Agreement as of May 1, 2023 to read, in full, as follows:

14.27 Option to Purchase. In consideration of the mutual covenants of the Parties to the Lease Agreement and this Amendment, the LESSOR hereby grants to the COUNTY the ongoing option ("Option") to purchase the Property immediately after or commensurate with the execution of this Amendment. The terms of Purchase shall be as per that certain "Purchase and Sale agreement dated as of May 1, 2023 by and between Guillon Inc and County of Tulare. If the LESSOR fails to deliver clear title to the Property to the COUNTY thereunder by January 5, 2024, then the Amendment shall terminate effective January 5, 2024 and the Lease Agreement shall terminate as of October 31, 2024. The County shall review, and approve or disapprove in writing, the Preliminary Title Report for the

Property prior to the opening of Escrow. If Lessor causes clear title to materially change after COUNTY's approval and fails to deliver clear title to the Lessee, then the Amendment and Lease shall terminate as set forth above.

5. Paragraph 14.18 of Tulare County Lease Agreement No. 28380 is deleted in its entirety and replaced as follows effective May 1, 2023:

14.18 Reduction of Leased area or Termination of Lease on Reduction in Funding. (a) The LESSOR acknowledges that DCSS is dependent upon certain Federal and State funding to pay the rent provided for in this Lease Agreement. If such funding or monies actually received in any fiscal year, or re-imbursed to the County from both the Federal and State government is cumulatively less than the 2022/2023 fiscal year funding or is discontinued or reduced, then the COUNTY may need to reduce the amount of square footage provided for in this Lease Agreement along with a commensurate reduction of monthly base rent. In order for the COUNTY to invoke such reduction, the COUNTY must notify the LESSOR within ten (10) business days of COUNTY's confirmation of loss or reduction of such Federal and State funding and provide LESSOR with the details and Federal and or state documents identifying such funding reduction and COUNTY's proposed reduction in leased square footage hereunder, reduced base rent, and the effective date for such reductions (the "Rent Reduction Notice"). The Rent Reduction Notice may be made via certified mail or overnight courier service to the address set forth in Paragraph 14.17. Additionally, the county must notify Lessor of any notifications or indications , verbal or written, from the state wherein funding reductions are being considered. The LESSOR must acknowledge receipt of such Rent Reduction Notice within ten (10) business days, and the Parties must then meet and confer no later than thirty (30) days after the LESSOR receives said Rent Reduction Notice. It is the intent of both Parties to reach agreement on a square footage and base rent reduction in amounts and configurations that are agreeable to both Parties. It is the further intent of the Parties that any base rent reduction hereunder will, to the extent practicable, be proportionate to the percentage reduction in Federal and State funding from base lease year of fiscal year 2022/2023 described in said Rent Reduction Notice. If future funding is restored by the federal and /or state government to the same level as the 2022/2023 funding, then rent and square footage shall return to rents and square footage set forth in section 3.1.2 of this Amendment. The rent owed for such square footage reduction shall be prorated per square foot based upon the rent set forth in Paragraph 3.1.2. The COUNTY will not implement any square foot reduction until the Parties have met and conferred to reach a mutually agreeable configuration. Said reduction in square footage shall be agreed upon no later than sixty (60) days from the date the Rent Reduction Notice is received by the LESSOR. The COUNTY will also endeavor in good faith to fill the space lost

through funding reductions with other COUNTY offices or with suitable governmental or not-for-profit sub-tenants. If the Parties are unable to agree upon a reduction of square footage, base rent, and configuration, then the Parties shall engage in mediation prior to the initiation of any legal proceedings. During the pendency of the Parties' efforts to resolve such disagreement, each Party shall continue to fulfill its responsibilities under the Lease Agreement.

(b) If a dispute arising out of or relating to this Paragraph 14.18(a) is not resolved through the above-described negotiations process, then within thirty (30) days after notice is provided through a Mediation Request, the Parties shall participate in non-binding mediation administered by a mediator to help mediate and settle the dispute as soon as practicable. The mediation shall proceed as follows:

(1) The mediation shall be held at a mutually agreeable location within Tulare County, California.

(2) The Parties shall mutually select the mediator, who shall be an attorney currently licensed to practice law in the State of California or be a retired federal or state judge or magistrate. If the Parties disagree on selection of the mediator, then the Parties will select the mediator by lot from among two nominations provided by each Party.

(3) The mediator shall meet with and hear presentations by the Parties as soon as practicable after the mediator's appointment.

(4) Mediation will be conducted consistent with California Evidence Code Sections 1115-1128. The mediator shall owe a professional duty to both Parties and shall be barred from testifying in any litigation concerning any information obtained or disclosed in the course of the mediation.

(5) Each side shall bear its own costs and attorneys' fees, and one-half of all fees and expenses of the mediator.

(6) Unless otherwise agreed upon by the Parties in writing, the mediation shall be completed within thirty (30) days of the selection of the mediator.

(7) The Parties agree that the mediation, including proceedings or discussions concerning the mediation, is to be considered a confidential settlement negotiation for the purpose of all state and federal rules protecting disclosures made during such conferences from later discovery or use in evidence. All conduct, statements, promises, offers, views, and opinions, oral or written, made during the mediation by any Party or a Party's agent, employee, or attorney shall

be deemed to be confidential and shall not be subject to discovery or admissible for any purpose, including impeachment, in any litigation or other proceeding, including any non-binding arbitration, involving the Parties; provided, however, that evidence otherwise subject to discovery or admissible is not excluded from discovery or admission into evidence simply as a result of it having been used in connection with the mediation.

(8) The mediator's decision shall not be binding on or admissible against either Party. If mediation fails to resolve the dispute, then either Party may pursue litigation to resolve the dispute.

6. Paragraph 14.24 of the Lease Agreement is hereby amended as of May 1, 2023 to add the following definitions of terms to said Paragraph:

The Lease Agreement: The Lease Agreement for the Premises entered into by the LESSOR and the COUNTY as of November 1, 2017, as amended by the First Amendment.

First Amendment or Amendment: That amendment to the Lease Agreement entered into by the LESSOR and the COUNTY as of May 1, 2023.

The Lawsuit: *Guillon, Inc., etc. v. County of Tulare, etc., et al.*, Tulare County Superior Court Case No. VCU290846.

Mediation Request: A written request from either Party requesting the other Party to engage in non-binding mediation of a dispute under Paragraph 14.18 of the Lease Agreement, which request must set forth in detail the nature of the dispute and issues to be resolved.

Federal and State Funding: Payments or reimbursements received by COUNTY from the United States federal government, and/or from the California state government, for certain costs incurred or to be incurred by the COUNTY and/or DCSS in providing DCSS's services to the public. For reference for the base lease year of 2022/2023 the funding to Tulare county by the state and federal government was approximately \$15,000,000.

7. This Amendment only becomes effective if on or before May 1, 2023 COUNTY and LESSOR have entered into and fully executed a separate Purchase and Sale Agreement by which LESSOR agrees to sell the Property to COUNTY and COUNTY agrees to purchase the Property from LESSOR on mutually acceptable terms.

THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

LESSOR
GUILLON, INC.

Date: 5-2-23

By: [Signature]
Doug Guillon, President

Date: 5-2-23

By: [Signature]
Deborah Guillon, Secretary

COUNTY
COUNTY OF TULARE

Date: May 9, 2023

By: [Signature]
Vice Chair, Board of Supervisors
LARRY MICARI

ATTEST: JASON T. BRITT
County Administrative Officer
Clerk of the Board of Supervisors

By: [Signature]
Deputy Clerk



Approved as to form:
County Counsel

By: [Signature]
Deputy

Matter ID: 2022376

Exhibit A-1

Dated May 1, 2023

8040 W. Doe Avenue, Visalia

The Premises

