

## SECOND AMENDMENT TO SUBLEASE AGREEMENT

THIS SECOND AMENDMENT TO SUBLEASE AGREEMENT (this “**Second Amendment**”) is entered into effective as of the Effective Date set forth on Subtenant’s signature page (the “**Second Amendment Date**”), by and between DP MEDIA NETWORK LLC, a Delaware limited liability company (“**Sublandlord**”), and the CITY AND COUNTY OF DENVER, a home rule city and municipal corporation of the State of Colorado (“**Subtenant**”).

### RECITALS:

**A.** THE DENVER POST LLC, a Delaware limited liability company f/k/a The Denver Newspaper Agency LLP, a Delaware limited liability partnership (“**Original Sublandlord**”) and Subtenant entered into that certain Sublease Agreement with an Effective Date of April 15, 2016, as amended by First Amendment to Sublease Agreement dated May 30, 2017 (the “**Sublease**”), relating to the subleasing of certain premises (the “**Current Premises**”) consisting of approximately 92,328 rentable square feet, on the 1<sup>st</sup>, 7<sup>th</sup> and 8<sup>th</sup> floors of the building complex located at 101 West Colfax Avenue, Denver, Colorado 80202 (the “**Building**”), said Current Premises (i) consisting of the 1<sup>st</sup> Floor Premises (as defined in the Sublease), the 7<sup>th</sup> Floor Premises (as defined in the Sublease), and the Expansion Premises (as defined in the First Amendment to the Sublease), and (ii) being more particularly described in the Sublease;

**B.** The Sublease Term is (i) as to the 1<sup>st</sup> Floor Premises and the 7<sup>th</sup> Floor Premises, currently scheduled to expire on August 31, 2023, and (ii) as to the Expansion Premises, currently scheduled to expire on February 28, 2025; and

**C.** Sublandlord and Subtenant desire to (i) provide for the leasing of the Second Expansion Premises (as defined below) for the term specified herein, (ii) establish the term of the Sublease as to the Second Expansion Premises, (iii) establish the Base Rent for the Second Expansion Premises, and (iv) provide other amendments of the Sublease, all subject and pursuant to the terms and conditions set forth below.

### AGREEMENT:

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Sublandlord and Subtenant agree as follows:

**1. Incorporation of Recitals.** The foregoing Recitals shall be incorporated as though fully set forth herein.

**2. Sublease of the Second Expansion Premises; The Combined Premises.**

**2.1 Sublease of the Second Expansion Premises.** On the Second Expansion Premises Commencement Date (as defined below), Sublandlord leases to Subtenant, and Subtenant leases from Sublandlord, those certain premises, commonly known as Suite 950, consisting of approximately 27,467 rentable square feet on the 9<sup>th</sup> floor of the Building and being more particularly depicted on **Exhibit “A”** attached to and incorporated into this Second Amendment (the “**Second Expansion Premises**”). Notwithstanding anything in this Second Amendment to the contrary, Subtenant shall not be entitled to use or occupy the Second Expansion Premises until the Second Expansion Premises are Substantially Complete (as defined below).

**2.2 Condition of the Second Expansion Premises.** Subtenant acknowledges that neither Sublandlord nor any agent of Sublandlord has made any representation or warranty with respect to the Second Expansion Premises or the Building or with respect to the suitability of any part of the same for the conduct of Subtenant's business. Subject to Sublandlord's obligations under Section 5 of this Second Amendment, Subtenant shall be conclusively deemed to have accepted the Second Expansion Premises "AS IS" in the condition existing on the Second Expansion Premises Commencement Date, and to have waived all claims relating to the condition of the Second Expansion Premises. Except as expressly set forth in this Second Amendment, Sublandlord shall not have any obligation to construct or install any improvements or alterations, or to pay for any such construction or installation, in or on the Second Expansion Premises or the Current Premises.

**2.3 The Combined Premises.** As used in this Second Amendment and in the Sublease, the "**Combined Premises**" means, collectively, (a) the Current Premises plus (b) the Second Expansion Premises. Sublandlord and Subtenant acknowledge and agree that the Rentable Area of the Combined Premises consists of approximately 119,795 rentable square feet, subject to verification and adjustment in accordance with the terms and conditions of the Sublease. From and after the Second Expansion Premises Commencement Date, the Sublease is amended such that all references in the Sublease to (i) the "Subleased Premises" shall be deemed to refer to the Combined Premises, and (ii) the Rentable Area of the Subleased Premises shall be deemed to mean 119,795 rentable square feet, subject to verification and adjustment in accordance with the terms and conditions of the Sublease.

### **3. Term.**

**3.1 The Second Expansion Premises Term.** The Sublease Term for the Second Expansion Premises (the "**Second Expansion Premises Term**") shall commence on the Second Expansion Premises Commencement Date and shall terminate on May 31, 2028 (the "**Second Expansion Premises Expiration Date**"), unless sooner terminated pursuant to the Sublease. From and after the Second Expansion Premises Commencement Date, the Sublease is amended such that all references in the Sublease to the "Sublease Term" shall be deemed to include reference to the Second Expansion Premises Term.

**3.2 Terms Are Not Coterminous.** Sublandlord and Subtenant acknowledge and agree that the terms for the Current Premises and the Second Expansion Premises Term are not coterminous, and, instead, are currently scheduled to expire on different dates. On the Second Expansion Premises Expiration Date, or on the earlier termination of the Second Expansion Premises Term, Subtenant shall vacate and deliver to Sublandlord exclusive possession of the Second Expansion Premises pursuant to the same provisions and requirements of the Sublease as would apply to the surrender of the Current Premises upon the expiration or the earlier termination of the Sublease. If, however, the Sublease Term as to the Current Premises expires or otherwise terminates prior to the expiration or earlier termination of the Second Expansion Premises Term, the Sublease shall continue in effect as to the Second Expansion Premises through the Second Expansion Premises Term, unless earlier terminated in accordance with the Sublease.

**3.3 The Second Expansion Premises Commencement Date.** The "**Second Expansion Premises Commencement Date**" means the *earlier* of (a) the date the Second Expansion Premises are Substantially Complete, or (b) June 1, 2018. It is anticipated that the

Second Expansion Premises will be Substantially Complete on or around the date that is 60 days after the Second Amendment Date (the “**Estimated Completion Date**”). Sublandlord shall have no responsibility or liability if the Second Expansion Premises are not Substantially Complete by the Estimated Completion Date. For the avoidance of doubt, Sublandlord and Subtenant acknowledge and agree that the Second Expansion Premises Commencement Date may occur before, on or after the Estimated Completion Date.

**3.4 Commencement Date Memorandum.** Promptly following the Second Expansion Premises Commencement Date, Sublandlord and Subtenant shall execute a commencement date memorandum or notice of lease term dates, in a form provided by Sublandlord and reasonably acceptable to Subtenant (the “**Commencement Date Memorandum**”), which Commencement Date Memorandum shall, among other matters, (a) acknowledge that Subtenant has accepted possession of the Second Expansion Premises, and (b) recite the exact Second Expansion Premises Commencement Date and the Second Expansion Premises Expiration Date. The failure by either party, or both parties, to execute the Commencement Date Memorandum shall not affect the rights or obligations of either party hereunder. The Commencement Date Memorandum, when so executed and delivered, shall be deemed to be a part of the Sublease.

#### 4. Rent and Other Terms.

##### 4.1 Base Rent.

(a) *For the Current Premises.* Subtenant shall continue to pay Base Rent allocable to the Current Premises in accordance the terms and conditions of the Sublease.

(b) *For the Second Expansion Premises.* Subtenant shall pay Base Rent for the Second Expansion Premises for the Second Expansion Premises Term as follows:

<b><u>Months of the Second Expansion Premises Term</u></b>	<b><u>Annual Rate per Rentable Square Foot</u></b>	<b><u>Period Base Rent</u></b> <i>(Total Base Rent due during applicable period, assuming a June 1, 2018 commencement date)</i>	<b><u>Monthly Installment of Base Rent</u></b>
The Second Expansion Premises Commencement Date – May 31, 2028	\$28.20	\$7,745,694.00	\$64,547.45

##### 4.2 Operating Expenses.

(a) *For the Current Premises.* Tenant shall continue to pay Operating Expenses allocable to the Current Premises in accordance with the terms and conditions of the Sublease.

(b) *For the Second Expansion Premises.* Beginning on January 1, 2019 and continuing throughout the Second Expansion Premises Term, Subtenant shall pay Sublandlord the following amounts as Subtenant’s stipulated share of Operating Expenses allocable to the Second Expansion Premises:

<b><u>Period of the Second Expansion Premises Term</u></b>	<b><u>Annual Rate per Rentable Square</u></b>	<b><u>Period Operating Expenses</u></b>	<b><u>Monthly Installment of</u></b>
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	<b>Foot</b>	<i>(Total Operating Expenses due during applicable period)</i>	<b><u>Operating Expenses</u></b>
January 1, 2019 – December 31, 2019	\$ .68	\$18,677.56	\$1,556.46
January 1, 2020 – December 31, 2020	\$1.38	\$37,904.46	\$3,158.71
January 1, 2021 – December 31, 2021	\$2.11	\$57,955.37	\$4,829.61
January 1, 2022– December 31, 2022	\$2.87	\$78,830.29	\$6,569.19
January 1, 2023 – December 31, 2023	\$3.66	\$100,529.22	\$8,377.44
January 1, 2024 – December 31, 2024	\$4.48	\$123,052.16	\$10,254.35
January 1, 2025 – December 31, 2025	\$5.34	\$146,673.78	\$12,222.82
January 1, 2026 – December 31, 2026	\$6.23	\$171,119.41	\$14,259.95
January 1, 2027 – December 31, 2027	\$7.15	\$196,389.05	\$16,365.75
January 1, 2028 – May 31, 2028	\$8.11	\$92,815.57	\$18,563.11

**4.3 Subtenant’s Covenant to Pay Rent.** Subtenant agrees to pay to Sublandlord at Sublandlord’s Payment Address, or to such other persons, or at such other places designated by Sublandlord, without any prior demand therefor in immediately available funds and without any deduction or offset whatsoever, Base Rent, Operating Expenses, Additional Rent, and all other amounts due under the Sublease that are allocable to the Second Expansion Premises (collectively, “**Second Expansion Premises Rent**”). Any and all references in the Sublease to “Rent” are amended to include reference to Second Expansion Premises Rent.

**4.4 Excess and After Hours Usage.** Subtenant shall not be entitled to any Excess Usage and After Hours Usage in the Second Expansion Premises unless Subtenant agrees to pay for such Excess Usage and After Hours Usage. The cap on charges for Excess Usage and After Hours Usage that is set forth in *Section 7.2* of the Sublease (the “**Excess and After Hours Usage Cap**”) may be utilized anywhere on the Combined Premises, as long as the Excess and After Hours Usage Cap for the entire Sublease Term has not been exceeded. Each request by Subtenant for Excess Usage or After Hours Usage for the Second Expansion Premises shall only be deemed to increase the Excess and After Hours Usage Cap if such amount has previously been expended, and such amount has been increased by City Council.

**5. Sublandlord’s Work.**

## 5.1 Sublandlord's Work.

(a) *Approved Turnkey Plan; Sublandlord's Work.* Sublandlord shall perform the work depicted on **Exhibit "B"** attached to and incorporated into this Second Amendment (the "**Approved Turnkey Plan**"), which work has been approved by Subtenant. All work and materials specifically identified on the Approved Turnkey Plan shall be paid for by Subtenant upon receipt of an invoice from Sublandlord, no more frequently than monthly, up to a maximum amount of \$400,000.00 ("**Maximum Cost**") and shall be referred to as "**Sublandlord's Work.**" In the event Sublandlord believes that the costs for the Approved Turnkey Plan shall exceed the Maximum Cost, the Parties shall confer and alter Sublandlord's Work so that the maximum amount is not exceeded.

(b) *Maximum Cost for Sublandlord's Work.* If Subtenant makes any modifications or changes to the Approved Turnkey Plan, then all resulting costs and expenses shall be Subtenant's and shall be paid promptly by Subtenant upon receipt of billing therefor if Subtenant agrees to costs in excess of the Maximum Costs. In the event that Subtenant fails to make any payment for Sublandlord's Work within 30 days after Sublandlord's written demand, Sublandlord shall have the right, without liability to Subtenant, to cease Sublandlord's Work on the Subleased Premises until such payment is made.

(c) *Building Standard.* Sublandlord's Work shall be done with such minor variations as Sublandlord may deem advisable, so long as such variations will not materially interfere with the permitted use of the Second Expansion Premises. In order to insure the consistent quality and appearance of the Building, the style, color and items to be used in the construction and installation of Sublandlord's Work shall be made in Sublandlord's sole discretion.

(d) *Substantial Completion; Substantially Complete.* "**Substantial Completion**" or "**Substantially Complete**" means that Sublandlord's Work has been completed in accordance with the Approved Turnkey Plan, subject only to punch list items, as evidenced by the certificate of substantial completion of Sublandlord's architect or contractor.

(e) *Construction Management Fee.* In consideration of Sublandlord's coordination and administration of Sublandlord's Work, Subtenant shall pay Sublandlord a fee in an amount equal to 3% of the cost of Sublandlord's Work (the "**Construction Management Fee**"). The Construction Management Fee shall be paid on an as-complete basis from time to time as work progresses upon Subtenant's receipt of a written invoice accompanied by a supporting statement from Sublandlord. In the event that Subtenant fails to make any payment for the Construction Management Fee within 30 days after Sublandlord's written demand, Sublandlord shall have the right, without liability to Subtenant, to cease Subtenant's Work on the Subleased Premises until such payment is made.

## 6. Subtenant's Existing Options and Other Rights; No Other Options to Terminate Sublease.

**6.1 Modification and Ratification of Renewal Option.** Sublandlord and Subtenant acknowledge and agree that (a) the Renewal Option set forth in Section 29 of Rider to the Sublease shall, subject to the terms and conditions of the Sublease (as amended hereby), continue in full force and effect during the Sublease Term, and (b) the Renewal Option is amended to provide that, given the different expiration dates for the Sublease Terms for the Subleased

Premises, the Expansion Premises and the Second Expansion Premises, Subtenant shall have the right to renew the Sublease for each portion of the Subleased Premises consistent with the Option Exercise Notice, as set forth in Section 29 of Rider to the Sublease, that would be required for each portion of the Combined Premises in accordance with each portion's expiration date. The Parties agree that the Sublease Term expiration dates are as follows: (i) Subleased Premises-August 31, 2023; (ii) Expansion Premises-February 28, 2025; and (iii) Second Expansion Premises- February 28, 2028.

**6.2 Modification and Ratification of Right of First Offer.** Sublandlord and Subtenant acknowledge and agree that the Right of First Offer set forth in Section 30 of Rider to the Sublease shall, subject to the terms and conditions of the Sublease (as amended hereby), continue in full force and effect during the Sublease Term.

**6.3 Modification and Ratification of Limited Cancellation Option.** Sublandlord and Subtenant acknowledge and agree that (a) Subtenant's Limited Cancellation Option set forth in Section 30 of Rider 1 to the Sublease shall, subject to the terms and conditions of the Sublease (as amended hereby), continue in full force and effect during the Sublease Term, and (b) the Limited Cancellation Option is amended to provide that, if Subtenant timely exercises the Limited Cancellation Option by timely delivering Subtenant's Cancellation Notice in accordance with Section 30 of Rider 1 to the Sublease, then Subtenant shall, at the time Subtenant delivers Subtenant's Cancellation Notice, pay Sublandlord, in good and immediately available funds, both the Cancellation Fee, the Additional Cancellation Fee (as defined below), and the Second Additional Cancellation Fee (as defined below). The "**Second Additional Cancellation Fee**" is an amount equal to the sum of (i) the unamortized portion of Sublandlord's Second Expansion Transaction Costs (as defined below), *plus* (ii) two (2) months of Base Rent and Operating Expenses for the Second Expansion Premises (based on the amount of Base Rent and Operating Expenses payable during the 2-month period commencing on the Cancellation Date). For purposes of calculating the Second Additional Cancellation Fee, Sublandlord's Second Expansion Transaction Costs, together with interest at seven percent (7%) per annum, shall be amortized in 120 equal monthly amounts commencing as of the Second Expansion Premises Commencement Date and the unamortized portion thereof will be calculated as of the Cancellation Date. As used in this Second Amendment, "**Sublandlord's Second Expansion Transaction Costs**" shall mean, collectively, the commissions actually paid to the Brokers in connection with this Second Amendment. Sublandlord shall (1) within sixty (60) days after Subtenant's written demand (but in no event earlier than the Second Expansion Premises Commencement Date), deliver to Subtenant the total amount of Sublandlord's Second Expansion Transaction Costs, and (2) within thirty (30) days after Subtenant's written demand (but in no event earlier than thirty (30) days prior to the Cancellation Exercise Deadline), deliver to Subtenant the estimated amount of Operating Expenses payable during the 2-month period commencing on the Cancellation Date.

**6.4 No Other Options to Terminate Sublease.** Subtenant acknowledges and agrees that, except as expressly set forth in Section 6.3 above, any and all options Subtenant may have had to terminate the Sublease (other than termination rights arising pursuant to the casualty or condemnation provisions of the Sublease), if any, have expired and are of no further force or effect.

**6.5 Right of First Refusal.**

(a) *Grant of Right of First Refusal.* Subject to the terms and conditions of this Section 6.5, Sublandlord grants to Subtenant a continuous right of first refusal (the “**Right of First Refusal**”) to lease any additional leasable space that becomes available in the Building (the “**First Refusal Space**”). The Right of First Refusal (i) shall not commence until the expiration or earlier termination of the applicable Existing Sublease (as defined below), and (ii) shall be subject and subordinate to each Senior-Priority Lease and each Intervening ROFR Lease (as those terms are defined below). The “**Senior-Priority Leases**” means (A) each of the subleases for all or any portion of the Right of First Refusal Space that are in effect as of the Second Amendment Date (each, an “**Existing Sublease**”), and (B) each right to lease or sublease all or any portion of the Right of First Refusal Space that Sublandlord has granted to any third party prior to the Second Amendment Date (including, without limitation, OnDeck’s expansion right on the 11<sup>th</sup> floor of the Building).

(b) *Procedure for Offer; The Applicable First Refusal Space.* If (i) Sublandlord received a bona fide written offer from an unaffiliated third party (each, a “**Bona Fide Offer**”) for the lease of all or any portion of the First Refusal Space (the “**Applicable First Refusal Space**”), and (ii) Sublandlord is willing to accept the Bona Fide Offer, then Sublandlord shall give Subtenant written notice (the “**First Refusal Notice**”) that Sublandlord has received the Bona Fide Offer. Pursuant to such First Refusal Notice, Sublandlord shall offer to lease the Subtenant the Applicable First Refusal Space on the same terms and conditions of the Bona Fide Offer (collectively, the “**Bona Fide Offer Terms**”). The Applicable First Refusal Space may include an area that does not comprise the entire First Refusal Space.

(c) *Procedures for Acceptance.* In order to exercise the Right of First Refusal, Subtenant must, within five (5) Business Days to Subtenant’s receipt of the First Refusal Notice, deliver written notice (each, a “**Preliminary Acceptance**”) to Sublandlord setting forth Subtenant’s desire to lease the entire Applicable First Refusal Space on the Bona Fide Offer Terms subject to obtaining Council Approval (as defined below). Subtenant’s delivery of a Preliminary Acceptance shall constitute a representation by the Director of Real Estate that he/she (i) is in support of leasing the Applicable First Refusal Space on the Bona Fide Offer Terms, and (ii) will make a recommendation to the Denver City Council that it approve, authorize and appropriate for the Subtenant to sublease the Applicable First Refusal Space on the Bona Fide Offer Terms.

(d) *Failure to Comply with Procedure for Acceptance.* If (i) Subtenant fails to deliver a Preliminary Acceptance to Sublandlord within the 5-Business Day period described in Section 6.5(c) above, or (ii) Subtenant delivers a Preliminary Acceptance but does not obtain Council Approval and execute a ROFR Amendment (as defined below) within 70 days after Subtenant’s delivery of a Preliminary Acceptance, then Sublandlord shall be free to lease all or any portion of the Applicable First Refusal Space to anyone whom Sublandlord desires (any lease of such space, each, a “**ROFR Intervening Lease**”).

(e) *Other Terms and Conditions.* Except as otherwise expressly set forth in the First Refusal Notice, Subtenant shall take the Applicable First Refusal Space in its “AS IS” condition, and Sublandlord shall have no obligation for free rent, leasehold improvements or for any other tenant inducements for the Applicable First Refusal Space, unless set forth in the First Refusal Notice. Except as otherwise expressly set forth in the First Refusal Notice, the Sublease Term for the Applicable First Refusal Space, and Subtenant’s obligation to pay Rent for the Applicable First Refusal Space, shall commence upon the date of delivery of the Applicable First Refusal Space to Subtenant and shall terminate on the date set forth in the First Refusal Notice.

(f) *Limitations.* Subtenant shall not have the right to lease the Applicable First Refusal Space, if, as of the date of Subtenant’s attempted exercise of the Right of First Refusal, or as of the scheduled date of delivery of the Applicable First Refusal Space to Subtenant, (a) an Event of Default is continuing, or (b) Sublandlord has given more than 2 notices of default in any 12-month period for nonpayment of monetary obligations.

(g) *Termination of Right of First Refusal.* The Right of First Refusal shall terminate as to the Applicable First Refusal Space if (i) Subtenant fails to timely deliver a Preliminary Acceptance with respect to the entire Applicable First Refusal Space as offered by Sublandlord in the First Refusal Notice, or (ii) Subtenant delivers a Preliminary Acceptance with respect to the entire Applicable First Refusal Space as offered by Sublandlord in the First Refusal Notice but does not obtain Council Approval and execute a ROFR Amendment within 70 days after Subtenant’s delivery of a Preliminary Acceptance. Notwithstanding anything in this Section 6.5 to the contrary, in the event the Right of First Refusal has terminated as to the Applicable First Refusal Space, Subtenant’s Right of First Refusal shall be reinstated with respect to the Applicable First Refusal Space if (i) Sublandlord has not consummated an ROFR Intervening Lease for such space within 180 days after Sublandlord’s delivery of the First Refusal Notice, or (ii) during the Sublease Term, the ROFR Intervening Lease of such Applicable First Refusal Space expires or terminates.

(h) *Amendment to Lease.* If Subtenant timely delivers a Preliminary Acceptance with respect to the entire Applicable First Refusal Space as offered by Sublandlord in the First Refusal Notice, Sublandlord and Subtenant shall proceed to process and execute an amendment to the Sublease for the Applicable First Refusal Space upon the terms and conditions as set forth in the First Refusal Notice and this Section 6.5 (each, a “**ROFR Amendment**”). Sublandlord and Subtenant acknowledge that each ROFR Amendment is subject to prior approval by the Denver City Council (“**Council Approval**”). Subtenant will not be required to present A ROFR Amendment to the Denver City Council unless and until the Director of Real Estate sends a Preliminary Acceptance to Sublandlord.

## **7. Parking.**

**7.1 Grant of Additional Parking Spaces.** During the Second Expansion Premises Term, Subtenant’s Employees shall be entitled to utilize (in addition to any other parking privileges under the Sublease for the Current Premises) the following parking privileges in the Parking Garage (collectively, the “**Additional Parking Spaces**”), in accordance with and subject to the terms and conditions of the Sublease:



(a) 55 parking spaces for parking at the Prevailing Rates (as defined below).

**7.2 Terms and Conditions.** The use of the Additional Parking Spaces and the Parking Garage shall at all times be subject to the provisions of Section 28 of Rider 1 to the Sublease, including, without limitation, the Parking Rules and Regulations.

**8. Brokerage.** Sublandlord and Subtenant each represent and warrant that they have dealt with no broker, realtor, or agent in connection with this Second Amendment and its negotiation, except for (a) McLin Commercial (“**Subtenant’s Broker**”), as Subtenant’s exclusive agent, and (b) Jones Lang LaSalle (“**Sublandlord’s Broker**,” and, together with Subtenant’s Broker, collectively, the “**Brokers**”), as Sublandlord’s exclusive agent. Sublandlord shall make payment of the brokerage fee due to the Brokers pursuant to and in accordance with a separate agreement with the Brokers.

**9. General Provisions.**

**9.1 Full Force and Effect; Conflict.** Except as amended by this Second Amendment, the Sublease as modified herein remains in full force and effect and is hereby ratified by Sublandlord and Subtenant. In the event of any conflict between the Sublease and this Second Amendment, the terms and conditions of this Second Amendment shall control.

**9.2 Capitalized Terms.** Capitalized terms not defined herein shall have the same meaning as set forth in the Sublease.

**9.3 Successors and Assigns.** This Second Amendment shall, subject to the terms and conditions of the Sublease, be binding upon and inure to the benefit of the parties hereto and their heirs, personal representatives, successors and assigns.

**9.4 Entire Agreement.** The Sublease, as amended by this Second Amendment, contains the entire agreement of Sublandlord and Subtenant with respect to the subject matter hereof, and may not be amended or modified except by an instrument executed in writing by Sublandlord and Subtenant.

**9.5 Power and Authority.** Subtenant has not assigned or transferred any interest in the Sublease and has full power and authority to execute this Second Amendment.

**9.6 Counterparts.** This Second Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**9.7 Facsimile/.PDF Signatures.** This Second Amendment may be executed by facsimile and/or .pdf signatures which shall be binding as originals on the parties hereto.

**9.8 No Option.** The submission of this document for examination and review does not constitute an option, an offer to lease space in the Building or an agreement to lease. This document shall have no binding effect on the parties unless and until executed by both Sublandlord and Subtenant and will be effective only upon Sublandlord’s execution of the same.

**9.9 Subject to Appropriation; No Multiple Year Obligation; Maximum Sublease Amount.** Notwithstanding anything to the contrary herein, it is understood and agreed that any payment obligation of the Subtenant herein, whether direct or contingent, shall extend only to funds appropriated by the Denver City Council for the purpose of this Second Amendment, encumbered for the purpose of this Second Amendment and paid into the Treasury of the City

and County of Denver. Sublandlord acknowledges that (i) Subtenant does not by this Second Amendment, irrevocably pledge present cash reserves for payments in future fiscal years, and (ii) this Second Amendment is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of Subtenant. In addition to the foregoing, the maximum amount to be paid by Subtenant in accordance with this Second Amendment shall not exceed **Nine Million Six Hundred Twenty Nine Thousand Six Hundred And Forty One DOLLARS AND Eighty Five CENTS (\$9,629,641.85)** unless the Sublease is modified to increase said amount by a duly authorized and written amendment to the Sublease executed by the parties in the same manner as the Sublease. *Section 1.1(q)* of the Sublease is amended to provide that the aggregate maximum amount to be paid by Subtenant in accordance with the Sublease (as amended by this Second Amendment) shall not exceed **Thirty One Million Three Hundred Nineteen Thousand Three Hundred Forty Six DOLLARS AND Sixty Nine CENTS (\$31,319,346.69)** unless the Sublease is modified to increase said amount by a duly authorized and written amendment to the Sublease executed by the parties in the same manner as the Sublease.

#### **9.10 Effectiveness Conditions.**

(a) *Effectiveness Conditions.* Notwithstanding anything in this Second Amendment to the contrary, the effectiveness of this Second Amendment is expressly conditioned on the satisfaction of each of the following conditions (collectively, the “**Effectiveness Conditions**”):

(i) Subtenant has duly executed this Second Amendment and delivered the same to Sublandlord;

(ii) Sublandlord has duly executed this Second Amendment and delivered the same to Subtenant;

(iii) The Denver City Council has duly approved this Second Amendment (the “**Subtenant Condition**”); and

(iv) OnDeck Capital, Inc. (“**OnDeck**”), the current subtenant of the Second Expansion Premises, has signed an amendment to its sublease whereby OnDeck is unconditionally and irrevocably obligated to surrender possession of the Second Expansion Premises (the “**Required Amendment**”), and all conditions to the effectiveness of the Required Amendment have been irrevocably satisfied.

It is expressly acknowledged and agreed that in no event shall the Second Expansion Premises Commencement Date be deemed to have occurred prior to the satisfaction of the Effectiveness Conditions.

(b) *Failure of Effectiveness Conditions.* If the Effectiveness Conditions have not been satisfied, or been deemed to be satisfied, on or before March 30, 2018 (the “**Contingency Deadline**”), then this Second Amendment (but not the Sublease) shall automatically terminate (without penalty) on the Contingency Deadline, in which event (i) this Second Amendment shall be of no further force or effect, and (ii) the Sublease shall continue in full force and effect.

(c) *The Subtenant Condition.* Subtenant shall use commercially reasonable efforts to cause the Subtenant Condition to be satisfied on or before the Contingency Deadline. Subtenant shall promptly notify Subtenant, in writing (the “**Condition Satisfaction Notice**”),

once the Subtenant Condition has been satisfied. Subtenant may waive, in writing, the Subtenant Condition.

(d) *The OnDeck Condition.* The Effectiveness Conditions set forth in Sections 9.10(a)(iv) above is referred to in this Second Amendment as the “**OnDeck Condition.**” Sublandlord shall use commercially reasonable efforts to cause the OnDeck Condition to be satisfied on or before the Contingency Deadline. Sublandlord shall promptly notify Subtenant, in writing (the “**Condition Satisfaction Notice**”), once the OnDeck Condition has been satisfied.

(e) *No Sublandlord’s Work Prior to Satisfaction of Effectiveness Conditions.* Sublandlord shall not be required to perform any of Sublandlord’s Work unless and until the Effectiveness Conditions have been satisfied, deemed satisfied or waived in writing.

*[signature page follows]*

Sublandlord and Subtenant have caused this Second Amendment to be executed as of the Second Amendment Date.

**SUBLANDLORD:**

DP MEDIA NETWORK LLC,  
a Delaware limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*[Subtenant's signature page follows]*

**SUBLANDLORD'S SIGNATURE PAGE**

*SECOND AMENDMENT TO SUBLEASE AGREEMENT*

101 W. COLFAX AVE.

DENVER, CO 80202

(CITY AND COUNTY OF DENVER)

**SUBTENANT:**

ATTEST:

CITY AND COUNTY OF DENVER

By: \_\_\_\_\_  
Debra Johnson, Clerk and Recorder,  
Ex-Officio Clerk of the City and  
County of Denver

By: \_\_\_\_\_  
Michael B. Hancock, Mayor

Effective Date: \_\_\_\_\_

**RECOMMENDED AND APPROVED:**

By: \_\_\_\_\_  
Brendan Hanlon, Chief Financial  
Officer

**APPROVED AS TO FORM:**

Kristin M. Bronson, Attorney  
for the City and County of Denver

**REGISTERED AND COUNTERSIGNED:**

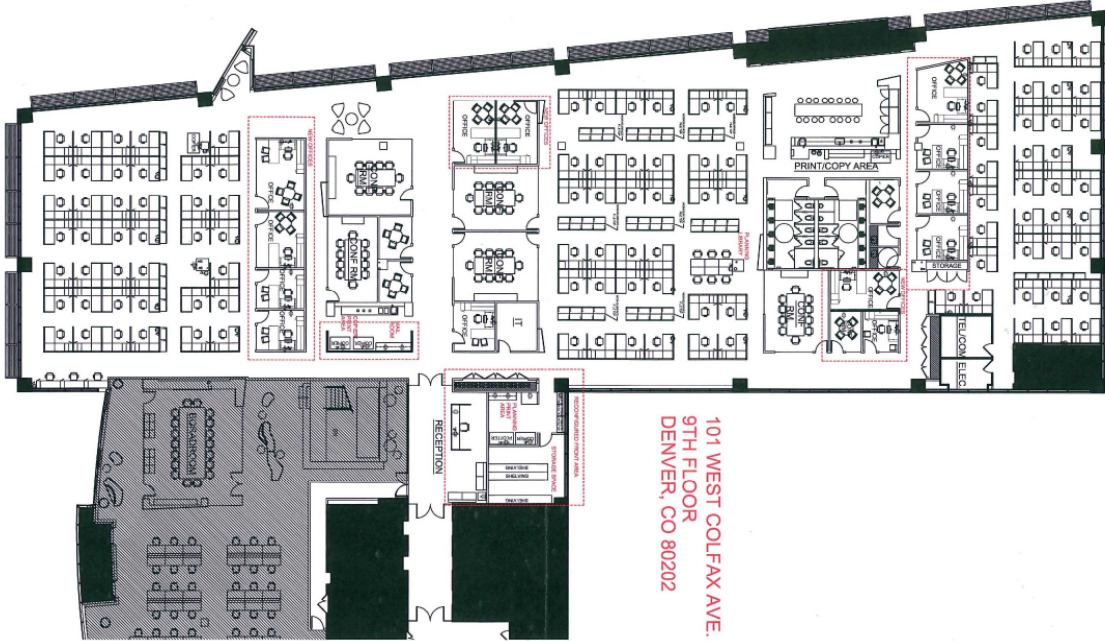
By: \_\_\_\_\_  
Assistant City Attorney

By: \_\_\_\_\_  
Timothy O'Brien, Auditor  
Contract Control No. \_\_\_\_\_

**SUBTENANT'S SIGNATURE PAGE**

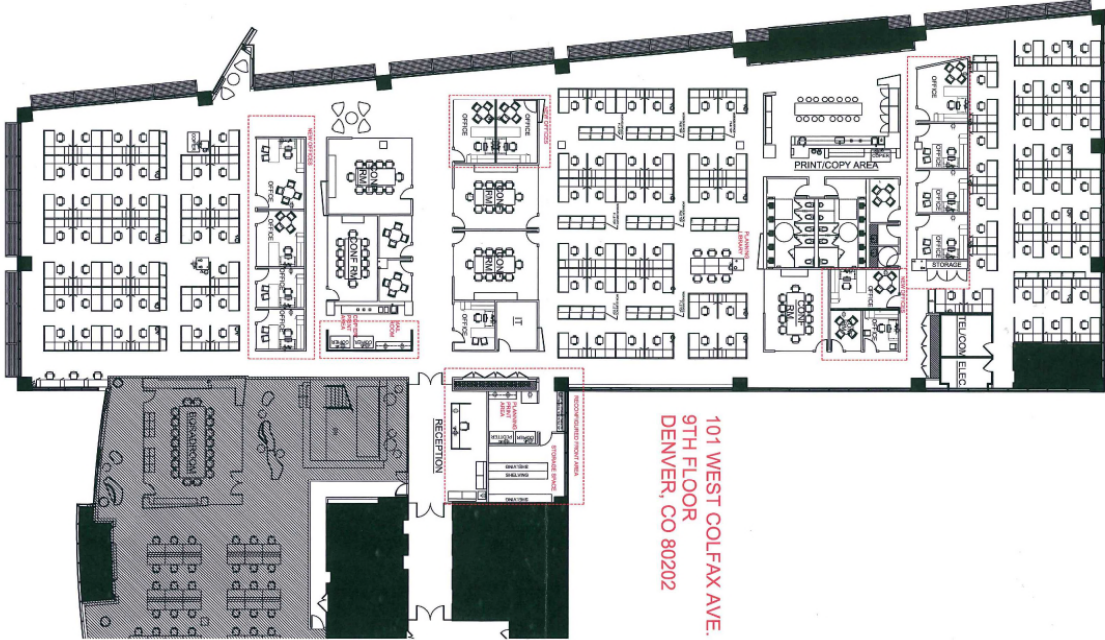
*SECOND AMENDMENT TO SUBLEASE AGREEMENT*  
101 W. COLFAX AVE.  
DENVER, CO 80202  
(CITY AND COUNTY OF DENVER)

**EXHIBIT "A"**  
**The Second Expansion Premises**  
*(Suite 950)*



*[NOTE – Any furnishings depicted on this plan are for illustration purposes only and are not included as part of the Second Expansion Premises]*

**EXHIBIT "B"**  
**Sublandlord's Work**



*[NOTE – Any furnishings depicted on this plan are for illustration purposes only and are not included as part of Sublandlord's Work]*

Document comparison by Workshare 9 on Monday, February 12, 2018 10:24:53 AM

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Padding cell	

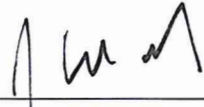
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Style change	0
Format changed	0
Total changes	42



Sublandlord and Subtenant have caused this Second Amendment to be executed as of the Second Amendment Date.

**SUBLANDLORD:**

DP MEDIA NETWORK LLC,  
a Delaware limited liability company

By: 

Name: Justin Muck

Title: CFO, VP of Finance

*[Subtenant's signature page follows]*



**Contract Control Number:**

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

**CITY AND COUNTY OF DENVER**

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

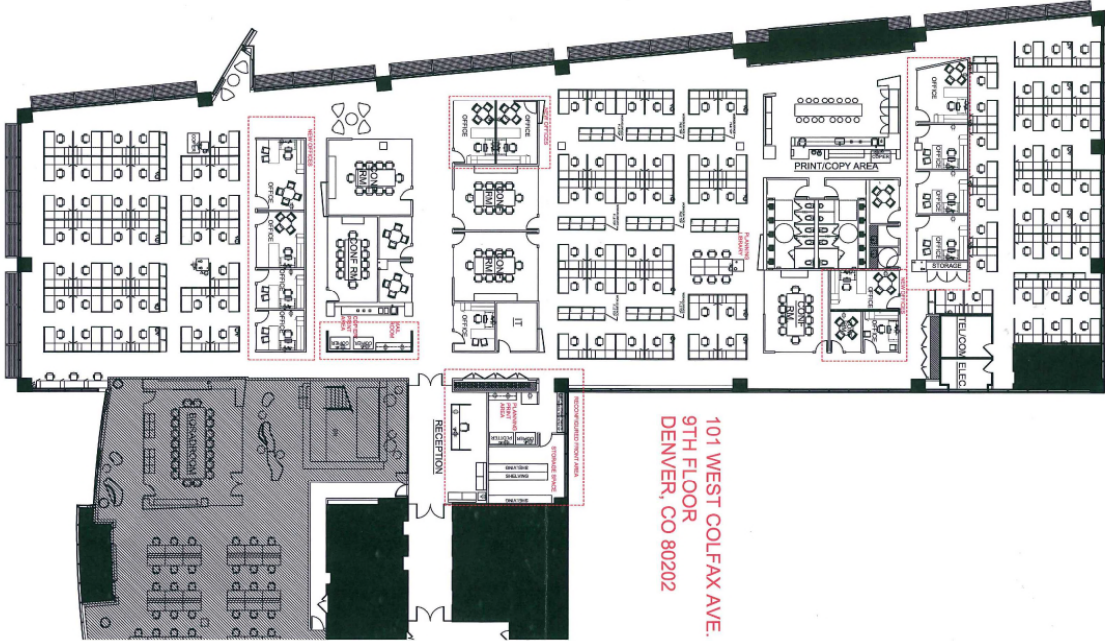
By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

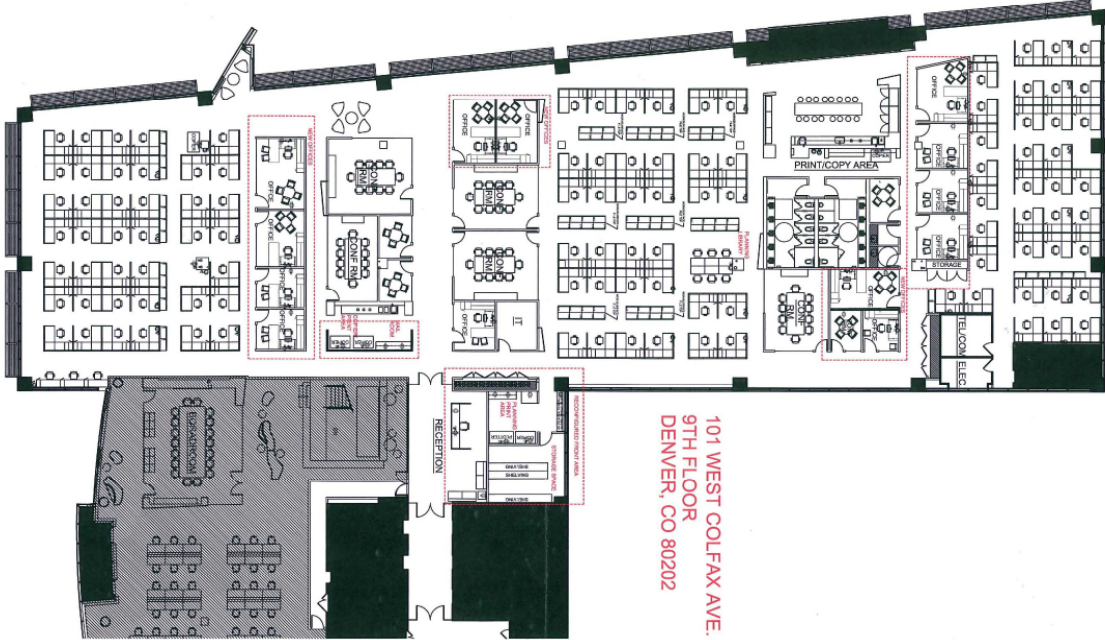


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**EXHIBIT "B"**  
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