

LEASE AGREEMENT

BASIC LEASE INFORMATION

Lease Date: June ____, 2022

Commencement Date: July 1, 2022

Landlord: **ARCUS PRIVATE CAPITAL SOLUTIONS, LLC**, an Arizona limited liability company

Tenant: **CITY OF GOODYEAR**, an Arizona municipal corporation

Premises: Those four (4) certain modular buildings, identified as Arizona Vehicular Identification Numbers 5725001, 5725002, 5725003 and 5725004 (individually and collectively, as applicable, the **"Building"**), located on approximately one (1.25) acres of real property, whose street address is 42960 S. 99th Avenue, Goodyear, Arizona 95239, described on Exhibit "A" attached hereto (the **"Land"**). The Building shall also include footings, foundations, structural and all HVAC, electrical, life-safety, mechanical and plumbing systems serving the Building, specifically including the backup generator and awning(s). The term **"Premises"** shall collectively refer to the Building, the Land and the driveways, parking facilities, loading areas, and roadways, associated with the Building, and similar improvements and easements associated with the foregoing or the operation thereof.

Term: Sixty (60) full calendar months, plus any partial month from the Commencement Date to the end of the month in which the Commencement Date falls, starting on the Commencement Date and ending at 5:00 p.m. local time on the last day of the 60th full calendar month following the Commencement Date, subject to adjustment and earlier termination as provided in the Lease.

Basic Rent: Basic Rent shall be the following amounts for the following periods of time (the first installment of Basic Rent is due upon execution of this Lease):

Lease Months	Annual Basic Rent Rate
1 - 12	\$10.00/year
13 - 24	\$10.00/year
25 - 36	\$10.00/year
37 - 48	\$10.00/year
49- 60	\$10.00/year

As used herein, the term **"Lease Month"** means each calendar month during the Term (and if the Commencement Date does not occur on the first day of a calendar month, the period from the Commencement Date to the first day of the next calendar month shall be included in the first Lease Month for purposes of determining the duration of the Term and the monthly Basic Rent rate applicable for such partial month).

Additional Rent: In addition to Basic Rent, Tenant shall pay all Operating Costs, as well as other sums Tenant may owe to Landlord or otherwise be required to pay under the Lease.

Security Deposit:	N/A.	
Rent:	Basic Rent, Additional Rent, and all other sums Tenant may owe to Landlord or otherwise be required to pay under the Lease.	
Permitted Use:	Administrative, office and other uses consistent with Tenant's police, fire and rescue operations for the City of Goodyear.	
Initial Liability Insurance Amount:	\$3,000,000.00	
Tenant's Address:	For all Notices: City of Goodyear 190 North Litchfield Road Goodyear, AZ 85338 Attention: City Manager's Office Telephone: 623-882-7051 DL-citymanager@goodyearaz.gov	With a copy to: City of Goodyear 190 North Litchfield Road Goodyear, AZ 85338 Attention: City Attorney's Office Telephone: 623-882-7227 gylegal@goodyearaz.gov
Landlord's Address:	For all Notices: ARCUS Private Capital Solutions, LLC 4915 East Baseline Road, Suite 105 Gilbert, AZ 85234 Attention: Tyler Wright Telephone: 480-305-7070 twright@landmark.net	With a copy to: Perkins Coie 2901 North Central Avenue, Suite 2000 Phoenix, AZ 85012-2788 Attention: Mala Clancey Telephone: 602-351-8265 mclancey@perkinscoie.com

The foregoing Basic Lease Information is incorporated into and made a part of the Lease identified above. If any conflict exists between any Basic Lease Information and the Lease, then the Lease shall control.

LANDLORD:

ARCUS PRIVATE CAPITAL SOLUTIONS, LLC, an Arizona limited liability company

By: 
Name: Andrew Martin
Title: Manager

TENANT:

THE CITY OF GOODYEAR, an Arizona municipal corporation

By: _____
Name: _____
Title: _____

Attested: _____
City Clerk

Approved: _____
City Attorney

LEASE

This Lease Agreement (this “**Lease**”) is entered into on this ____ day of June, 2022 and is shall commence on the 1st day of July, 2022, by and between **ARCUS PRIVATE CAPITAL SOLUTIONS, LLC**, an Arizona limited liability company (“**Landlord**”), and **THE CITY OF GOODYEAR**, an Arizona municipal corporation (“**Tenant**”).

1. **Definitions and Basic Provisions.** The definitions and basic provisions set forth in the Basic Lease Information (the “**Basic Lease Information**”) executed by Landlord and Tenant contemporaneously herewith are incorporated herein by reference for all purposes. Additionally, the following terms shall have the following meanings when used in this Lease: “**Affiliate**” means any person or entity which, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the party in question; “**including**” means including, without limitation; “**Laws**” means all federal, state, and local laws, ordinances, rules and regulations, all court orders, governmental directives, and governmental orders and all interpretations of the foregoing, and all restrictive covenants affecting the Premises, including the Building, and “**Law**” means any of the foregoing; and “**Tenant Party**” means any of the following persons: Tenant; any assignees claiming by, through, or under Tenant; any subtenants claiming by, through, or under Tenant; and any of their respective agents, contractors, employees, licensees, guests and invitees.

2. **Lease Grant.** Subject to the terms of this Lease, Landlord leases to Tenant, and Tenant leases from Landlord, the Premises.

3. **Tender of Possession.** Tenant was in possession of the Premises prior to the Commencement Date under another agreement with the Landlord and Tenant does hereby accept, the Premises in their “**As-Is, Where-Is**” condition with all faults as of the Commencement Date.

4. **Rent.**

(a) **Payment.** Tenant shall timely pay to Landlord Rent without demand, deduction or set off (except as otherwise expressly provided herein), by good and sufficient check drawn on a national banking association at Landlord’s address provided for in this Lease or as otherwise specified by Landlord and shall be accompanied by all applicable state and local sales or use taxes. The obligations of Tenant to pay Basic Rent and other sums to Landlord and the obligations of Landlord under this Lease are independent obligations. Basic Rent, adjusted as herein provided, shall be payable annually in advance. The first annual installment of Basic Rent shall be payable contemporaneously with the execution of this Lease; thereafter, Basic Rent shall be payable on July 1, 2022, July 1, 2023, July 1, 2024, July 1, 2025 and July 1, 2026. Rent may be paid in advance.

(b) **Payment of Operating Costs.** Tenant shall pay, at its sole cost and expense, all Operating Costs (defined below) associated with the Premises in addition to the Rent and the Additional Rent. The term “**Operating Costs**” means: (1) all supplies and materials used in the operation, maintenance, repair, replacement, and security of the Premises; (2) cost of all utilities (including fuel, gas, electricity, water, sewer, trash removal, telecommunications and other services) for the Premises; (3) repairs, replacements, and general maintenance of the Premises including the Building and all paving and parking areas, roads, roof repairs, alleys and driveways, trash collection, sweeping and removal of trash for the Land, mowing, weed control

and landscaping of the Land, and interior/exterior painting of the Building and associated improvements, the cost of maintaining utility lines, fire sprinklers and fire protection systems, interior/exterior lighting, dock doors, drains and sump pumps, and mechanical and plumbing systems serving the Premises; (4) service, maintenance and management contracts with independent contractors for the operation, maintenance, management, repair, replacement, and security of the Premises; (5) environmental management fees; (6) personal property taxes levied on the Building and all alterations, betterments and improvements thereto, furniture, trade fixtures, equipment and personal property, and (7) costs for improvements made to the Premises as permitted by Landlord in accordance with Section 8(a) below. The Operating Costs shall be paid directly by Tenant. To the extent Tenant fails to timely pay such Operating Costs, Landlord may pay same on Tenant's behalf and Tenant shall reimburse Landlord upon written request therefor.

5. **Delinquent Payment; Handling Charges.** All past due payments required of Tenant hereunder shall bear interest from the date due until paid at the lesser of eight percent per annum or the maximum lawful rate of interest (such lesser amount is referred to herein as the "**Default Rate**"); additionally, Landlord, in addition to all other rights and remedies available to it, may charge Tenant a fee equal to the greater of (a) \$50.00 or (b) five percent of the delinquent payment to reimburse Landlord for its cost and inconvenience incurred as a consequence of Tenant's delinquency. In no event, however, shall the charges permitted under this Section 5 or elsewhere in this Lease, to the extent they are considered to be interest under applicable Law, exceed the maximum lawful rate of interest.

6. **Security Deposit.** Landlord hereby waives the right to require a security deposit.

7. **No Landlord's Maintenance Obligations.** The rent and all other sums payable hereunder by Tenant (all of which shall be deemed to be Additional Rent) shall be paid without notice or demand and without set-off, counterclaim, abatement, suspension, deduction or defense. As more particularly set forth herein, Tenant shall pay all maintenance and repair costs and expenses, utility charges and expenses, impositions and all other costs and expenses, of whatever nature, allocable to or relating in any way to the Premises and/or the operation thereof, during the term of this Lease, under the terms and conditions of this Lease; provided, Tenant shall not pay separately for real estate taxes, environmental insurance or property insurance for the Building, it being acknowledged that the costs for same are included in Tenant's Basic Rent. It is expressly understood and agreed that, except as expressly set forth in this Lease, Landlord shall have no responsibility or obligations whatsoever, with respect to the Premises or the condition or use thereof, during the Term of this Lease, and shall be absolutely, without limitation, exculpated from any and all such responsibilities and/or obligations, all such responsibilities and obligations being those of Tenant.

8. **Improvements; Alterations; Tenant's Maintenance and Repair Obligations.**

(a) **Improvements; Alterations.** Improvements to the Premises shall be installed at Tenant's sole cost and expense and in accordance with plans and specifications which have been previously submitted to and approved in writing by Landlord. Tenant shall not paint or install lighting or decorations, signs, window or door lettering, or advertising media of any type visible from the exterior of the Premises without the prior written consent of Landlord, which consent may be withheld in Landlord's sole and absolute discretion. All alterations, additions, and improvements shall be constructed, maintained, and used by Tenant, at its risk and

expense, in accordance with all Laws; Landlord's consent to or approval of any alterations, additions or improvements (or the plans therefor) shall not constitute a representation or warranty by Landlord, nor Landlord's acceptance, that the same comply with sound architectural and/or engineering practices or with all applicable Laws. Further, Landlord may condition its consent to any alteration or addition on Tenant obtaining a letter of credit, bond, or other form of security satisfactory to Landlord, in its sole discretion, to ensure Tenant's compliance with its obligations hereunder.

(b) **Repairs; Maintenance.** Tenant shall, at Tenant's sole expense and in accordance with all Laws, maintain the entire Premises, including the Building and the Land, in a clean, safe, and operable condition, and shall not permit or allow any waste or damage to any portion of the Premises, subject to reasonable wear and tear. Additionally, Tenant, at its sole expense, shall repair, replace and maintain in good condition and in accordance with all Laws and the equipment manufacturer's suggested service programs, all portions of the Premises, and all areas, improvements and systems serving the Premises. Such repair and replacements include capital expenditures and repairs whose benefit may extend beyond the Term. .

(c) **Performance of Work.** All work described in this Section 8 with a value equal to or in excess of \$5,000 shall be performed only by contractors and subcontractors approved in writing by Landlord. Contractors and subcontractors performing any work on the premises to obtain and maintain insurance coverage with an insurance company duly licensed by the State of Arizona with a current A.M. Best Company, Inc. rating of not less than A- and a category rating of not less than VIII, to carry commercial general liability insurance that included premises-operations, products-completed operation, contractual liability, bodily injury, and property damage with a limit of not less than \$1,000,000 per occurrence and \$2,000,000. Such coverage shall be at least as broad as Insurance Service Office policy form CG)) 01 07 98 or any replacement thereof, shall be an occurrence based policy. All such work shall be performed in accordance with all Laws and in a good and workmanlike manner so as not to damage the Building.

(d) **Mechanic's Liens.** All work performed, materials furnished, or obligations incurred by or at the request of a Tenant Party shall be deemed authorized and ordered by Tenant only, and Tenant shall not permit any mechanic's liens to be filed against the Premises, including the Building in connection therewith. Upon completion of any such work, Tenant shall deliver to Landlord final lien waivers from all contractors, subcontractors and materialmen who performed such work. If such a lien is filed, then Tenant shall, within ten days after Landlord has delivered notice of the filing thereof to Tenant (or such earlier time period as may be necessary to prevent the forfeiture of the Premises, including the Building, or any interest of Landlord therein or the imposition of a civil or criminal fine with respect thereto), either (1) pay the amount of the lien and cause the lien to be released of record, or (2) diligently contest such lien and deliver to Landlord a bond or other security reasonably satisfactory to Landlord. If Tenant fails to timely take either such action, then Landlord may pay the lien claim, and any amounts so paid, including expenses and interest, shall be paid by Tenant to Landlord within ten days after Landlord has invoiced Tenant therefor. Landlord and Tenant acknowledge and agree that their relationship is and shall be solely that of "landlord-tenant" (thereby excluding a relationship of "owner-contractor," "owner-agent" or other similar relationships). Accordingly, all materialmen, contractors, artisans, mechanics, laborers and any other persons now or hereafter contracting with Tenant, any contractor or subcontractor of Tenant or any other Tenant

Party for the furnishing of any labor, services, materials, supplies or equipment with respect to any portion of the Premises, at any time from the date hereof until the end of the Term, are hereby charged with notice that they look exclusively to Tenant to obtain payment for same. Nothing herein shall be deemed a consent by Landlord to any liens being placed upon the Premises, including the Building or Landlord's interest therein due to any work performed by or for Tenant or deemed to give any contractor or subcontractor or materialman any right or interest in any funds held by Landlord to reimburse Tenant for any portion of the cost of such work. Tenant shall defend, indemnify and hold harmless Landlord and its agents and representatives from and against all claims, demands, causes of action, suits, judgments, damages and expenses (including attorneys' fees) in any way arising from or relating to the failure by any Tenant Party to pay for any work performed, materials furnished, or obligations incurred by or at the request of a Tenant Party. This indemnity provision shall survive termination or expiration of this Lease.

(e) **Janitorial Services.** Tenant, at its sole expense, shall provide its own janitorial services to the Premises and shall maintain the Premises, including the Building, in a clean and safe condition. Tenant shall store all trash and garbage within the area and in receptacles designated from time to time by Landlord and shall, at its sole expense, arrange for the regular pickup of such trash and garbage at times, and pursuant to reasonable regulations, established by Landlord from time to time. If Tenant fails to provide janitorial services to the Premises or trash removal services in compliance with the foregoing, Landlord, in addition to any other rights and remedies available to it, may provide such services, and Tenant shall pay to Landlord the cost thereof, plus an administrative fee equal to 15% of such cost, within ten days after Landlord delivers to Tenant an invoice therefore. Provided, however, Landlord shall not provide for said services without providing Tenant with a minimum of fourteen (14) days written notice.

9. **Utilities.** Tenant shall pay for all water, gas, electricity, heat, telephone, telecommunications, sewer, sprinkler charges and other utilities and services used at the Premises, together with any taxes, penalties, surcharges, connection charges, maintenance charges, and the like pertaining to Tenant's use of the Premises. Tenant, at its expense, shall obtain all utility services for the Premises, including making all applications therefor, obtaining meters and other related equipment, and paying all deposits and connection charges. Landlord shall not be liable for any interruption or failure of utility service to the Premises, and such interruption or failure of utility service shall not be a constructive eviction of Tenant, constitute a breach of any implied warranty, or, except as provided in the next sentence, entitle Tenant to any abatement of Tenant's obligations hereunder. If, however, Tenant is prevented from using the Premises for more than 25 consecutive business days because of the unavailability of any such service and such unavailability was caused by Landlord and restoration of such service is within the reasonable control of Landlord, then Tenant shall deliver written notice thereof to Landlord. If Landlord has not cured such unavailability within ten (10) days of receipt of such written notice, then Tenant shall, as its exclusive remedy, be entitled to a reasonable abatement of Rent for each consecutive day (after such 10-day cure period) that Tenant is so prevented from using the Premises. Rent shall not abate by reason of the interruption, insufficiency, unavailability or discontinuance of such service if such unavailability or discontinuance was not caused by Landlord and restoration of such service is not within the reasonable control of Landlord.

10. **Use.** Tenant shall continuously occupy and use the Premises only for the Permitted Use and shall comply with all Laws relating to the use, condition, access to, and

occupancy of the Premises and will not commit waste, overload the Building or subject the Premises to use that would damage the Premises. Notwithstanding anything in this Lease to the contrary, as between Landlord and Tenant, Tenant shall bear all risk of complying with Title III of the Americans With Disabilities Act of 1990, any state laws governing handicapped access or architectural barriers, and all rules, regulations, and guidelines promulgated under such laws, as amended from time to time (the “**Disabilities Acts**”) in the Premises, including the Building. Landlord shall have no duty of assuring the Premises, including the Building(s’), compliance with the Disabilities Acts. The Premises shall not be used for any use which is disreputable, creates extraordinary fire hazards or for the storage of any Hazardous Materials (except as provided in Section 25 hereto). Outside storage, including storage of trucks or other vehicles, is prohibited without Landlord’s prior written consent.

11. **Assignment and Subletting.** Tenant shall not, without the prior written consent of Landlord, (a) assign, transfer, or encumber this Lease or any estate or interest herein, whether directly or by operation of law, (b) permit any other entity to become Tenant hereunder by merger, consolidation, or other reorganization, (c) if Tenant is an entity other than a corporation whose stock is publicly traded, permit the transfer of an ownership interest in Tenant so as to result in a change in the current control of Tenant, (d) sublet any portion of the Premises, (e) grant any license, concession, or other right of occupancy of any portion of the Premises, or (f) permit the use of the Premises by any parties other than Tenant (any of the events listed in Section 11(a) through 11(f) being a “**Transfer**”). No Transfer shall release Tenant from its obligations under this Lease, but rather Tenant and its transferee shall be jointly and severally liable therefor. Landlord’s consent to any Transfer shall not waive Landlord’s rights as to any subsequent Transfers. Tenant shall pay to Landlord, immediately upon receipt thereof, the excess of (1) all compensation received by Tenant for a Transfer less the costs reasonably incurred by Tenant with unaffiliated third parties in connection with such Transfer (i.e., brokerage commissions and tenant finish work) over (2) the Rent allocable to the portion of the Premises covered thereby. [Note – Consent pending receipt of Maricopa fire/police contracts.]

12. **Insurance; Waivers; Subrogation; Indemnity.**

(a) **Tenant’s Insurance.** Effective as of the earlier of (1) the date Tenant enters or occupies the Premises, or (2) the Commencement Date, and continuing throughout the Term, Tenant shall maintain the following insurance policies: (A) commercial general liability insurance in amounts of \$3,000,000 per occurrence or, following the expiration of the initial Term, such other amounts as Landlord may from time to time reasonably require (and, if the use and occupancy of the Premises include any activity or matter that is or may be excluded from coverage under a commercial general liability policy [e.g., the sale, service or consumption of alcoholic beverages], Tenant shall obtain such endorsements to the commercial general liability policy or otherwise obtain insurance to insure all liability arising from such activity or matter [including liquor liability, if applicable] in such amounts as Landlord may reasonably require), insuring Tenant, Landlord, Landlord’s property management company, Landlord’s asset management company and, if requested in writing by Landlord, Landlord’s Mortgagee, against all liability for injury to or death of a person or persons or damage to property arising from the use and occupancy of the Premises, (B) insurance covering the full value of all alterations and improvements and betterments in the Premises, which as of the date of this Lease is \$95,000, naming Landlord and Landlord’s Mortgagee as additional loss payees as their interests may appear, (C) insurance covering the full value of all furniture, trade fixtures and personal property

(including property of Tenant or others) in the Premises, (D) contractual liability insurance sufficient to cover Tenant's indemnity obligations hereunder, and (E) worker's compensation insurance. Tenant's insurance shall provide primary coverage to Landlord when any policy issued to Landlord provides duplicate or similar coverage, and in such circumstance Landlord's policy will be excess over Tenant's policy. Tenant shall furnish to Landlord certificates of such insurance and such other evidence satisfactory to Landlord of the maintenance of all insurance coverages required hereunder at least ten days prior to the earlier of the Commencement Date or the date Tenant enters or occupies the Premises, and at least 15 days prior to each renewal of said insurance, and Tenant shall obtain a written obligation on the part of each insurance company to notify Landlord at least 30 days before cancellation or a material change of any such insurance policies. All such insurance policies shall be in form, and issued by companies with an A.M. Best rating of A+:VII or better, reasonably satisfactory to Landlord. If Tenant fails to comply with the foregoing insurance requirements or to deliver to Landlord the certificates or evidence of coverage required herein, Landlord, in addition to any other remedy available pursuant to this Lease or otherwise, may, but shall not be obligated to, obtain such insurance and Tenant shall pay to Landlord on demand the premium costs thereof, plus an administrative fee of 15% of such cost.

(b) **No Subrogation; Waiver of Property Claims.** Landlord and Tenant each waives any claim it might have against the other for any damage to or theft, destruction, loss, or loss of use of any property, to the extent the same is insured against under any insurance policy of the types described in this Section 12 that covers the Premises, Landlord's or Tenant's fixtures, personal property, leasehold improvements, or business, or is required to be insured against under the terms hereof, **regardless of whether the negligence of the other party caused such Loss (defined below)**. Additionally, Tenant waives any claim it may have against Landlord for any Loss to the extent such Loss is caused by a terrorist act. Each party shall cause its insurance carrier to endorse all applicable policies waiving the carrier's rights of recovery under subrogation or otherwise against the other party. Notwithstanding any provision in this Lease to the contrary, Landlord, its agents, employees and contractors shall not be liable to Tenant or to any party claiming by, through or under Tenant for (and Tenant hereby releases Landlord and its servants, agents, contractors, employees and invitees from any claim or responsibility for) any damage to or destruction, loss, or loss of use, or theft of any property of any Tenant Party located in or about the Premises, caused by casualty, theft, fire, third parties or any other matter or cause, **regardless of whether the negligence of any party caused such loss in whole or in part**. Tenant acknowledges that Landlord shall not carry insurance on, and shall not be responsible for damage to, any property of any Tenant Party located in or about the Premises.

(c) **Indemnity.** Subject to Section 12(b), to the fullest extent permitted by applicable Laws, Tenant shall defend, indemnify, protect and hold harmless Landlord and its representatives and agents from and against all claims, demands, liabilities, causes of action, suits, judgments, damages, and expenses (including reasonable attorneys' fees) arising from any injury to or death of any person or the damage to or theft, destruction, loss, or loss of use of, any property or inconvenience (a "**Loss**") (1) occurring in or on the Premises (other than within the Premises) to the extent caused by the negligence or willful misconduct of any Tenant Party, (2) occurring in the Premises, or (3) arising out of the installation, operation, maintenance, repair or removal of any property of any Tenant Party located in or about the Premises.

13. **Subordination; Attornment; Notice to Landlord's Mortgagee.**

(a) **Subordination.** This Lease shall be subordinate to any deed of trust, mortgage, or other security instrument (each, a "**Mortgage**"), or any ground lease, master lease, or primary lease (each, a "**Primary Lease**"), that now or hereafter covers all or any part of the Premises (the mortgagee under any such Mortgage, beneficiary under any such deed of trust, or the lessor under any such Primary Lease is referred to herein as a "**Landlord's Mortgagee**"). Any Landlord's Mortgagee may elect, at any time, unilaterally, to make this Lease superior to its Mortgage, Primary Lease, or other interest in the Premises by so notifying Tenant in writing. The provisions of this Section shall be self-operative and no further instrument of subordination shall be required; however, in confirmation of such subordination, Tenant shall execute and return to Landlord (or such other party designated by Landlord) within ten days after written request therefor such documentation, in recordable form if required, as a Landlord's Mortgagee may reasonably request to evidence the subordination of this Lease to such Landlord's Mortgagee's Mortgage or Primary Lease (including a subordination, non-disturbance and attornment agreement) or, if the Landlord's Mortgagee so elects, the subordination of such Landlord's Mortgagee's Mortgage or Primary Lease to this Lease.

(b) **Attornment.** Tenant shall attorn to any party succeeding to Landlord's interest in the Premises, whether by purchase, foreclosure, deed in lieu of foreclosure, power of sale, termination of lease, or otherwise, upon such party's request, and shall execute such agreements confirming such attornment as such party may reasonably request.

(c) **Notice to Landlord's Mortgagee.** Tenant shall not seek to enforce any remedy it may have for any default on the part of Landlord without first giving written notice by certified mail, return receipt requested, specifying the default in reasonable detail, to any Landlord's Mortgagee whose address has been given to Tenant, and affording such Landlord's Mortgagee a reasonable opportunity to perform Landlord's obligations hereunder.

(d) **Landlord's Mortgagee's Protection Provisions.** If Landlord's Mortgagee shall succeed to the interest of Landlord under this Lease, Landlord's Mortgagee shall not be: (1) liable for any act or omission of any prior lessor (including Landlord); (2) bound by any rent or additional rent or advance rent which Tenant might have paid for more than the current year to any prior lessor (including Landlord), and all such rent shall remain due and owing, notwithstanding such advance payment; (3) bound by any security or advance rental deposit made by Tenant which is not delivered or paid over to Landlord's Mortgagee and with respect to which Tenant shall look solely to Landlord for refund or reimbursement; (4) bound by any termination, amendment or modification of this Lease made without Landlord's Mortgagee's consent and written approval, except for those terminations, amendments and modifications permitted to be made by Landlord without Landlord's Mortgagee's consent pursuant to the terms of the loan documents between Landlord and Landlord's Mortgagee; (5) subject to the defenses which Tenant might have against any prior lessor (including Landlord); and (6) subject to the offsets which Tenant might have against any prior lessor (including Landlord) except for those offset rights which (A) are expressly provided in this Lease, (B) relate to periods of time following the acquisition of the Building by Landlord's Mortgagee, and (C) Tenant has provided written notice to Landlord's Mortgagee and provided Landlord's Mortgagee a reasonable opportunity to cure the event giving rise to such offset event. Landlord's Mortgagee shall have no liability or responsibility under or pursuant to the terms of this Lease or otherwise after it ceases to own an interest in the Premises. Nothing in this Lease shall be construed to require

Landlord's Mortgagee to see to the application of the proceeds of any loan, and Tenant's agreements set forth herein shall not be impaired on account of any modification of the documents evidencing and securing any loan.

14. **Rules and Regulations.** Tenant shall comply with the rules and regulations of the Premises which are attached hereto as Exhibit C as amended from time to time by Landlord. Tenant shall be responsible for the compliance with such rules and regulations by each Tenant Party.

15. **Condemnation.** If an entire Building or the Premises are taken by right of eminent domain or conveyed in lieu thereof by the State of Arizona or the County of Maricopa (but expressly excluding the City of Goodyear or its Affiliates)(a "**Taking**"), this Lease shall terminate as of the date of the Taking. If any material portion of the Premises, but less than all, of the Premises becomes subject to a Taking or if a Taking of a portion of the Land requires Landlord to relocate a Building to the remaining portion of the Land, or if Landlord is required to pay any of the proceeds arising from a Taking to a Landlord's Mortgagee, then Landlord may terminate this Lease by delivering written notice thereof to Tenant within 30 days after such Taking, and Basic Rent and Additional Rent shall be apportioned as of the date of such Taking. If Landlord does not so terminate this Lease, then this Lease will continue, but if any portion of the Premises has been taken, Rent shall be abated on a reasonable basis as to that portion of the Premises rendered untenable by the Taking. If any Taking occurs, then Landlord shall receive the entire award or other compensation for the Land, the Building, and other improvements taken; however, Tenant may separately pursue a claim (to the extent it will not reduce Landlord's award) against the condemnor for the value of Tenant's personal property which Tenant is entitled to remove under this Lease, moving costs, loss of business, and other claims it may have. Tenant agrees not to use its right of condemnation for a Taking as to the Premises during the Term.

16. **Fire or Other Casualty.** If the Premises or the Building are substantially damaged by fire or other casualty, such that a Building is rendered unfit for its intended purpose as reasonably determined by Landlord (a "**Casualty**"), then Landlord may terminate this Lease by giving written notice to Tenant of its election to terminate within 30 days after delivery of said notice to Tenant.

17. **Personal Property Taxes.** Tenant shall be liable for all taxes levied or assessed against personal property, furniture, or fixtures placed by Tenant in the Premises or in or on the Building. Tenant shall cause such personal property taxes to be promptly paid and discharged.

18. **Events of Default.** Each of the following occurrences shall be an "**Event of Default**":

(a) **Payment Default.** Tenant's failure to pay Rent within thirty (30) days after Landlord has delivered written notice to Tenant that the same is due.

(b) **Abandonment.** Tenant abandons or vacates the Premises or any substantial portion thereof;

(c) **Estoppel.** Tenant fails to provide any estoppel certificate after Landlord's written request therefor pursuant to Section 24(c) and such failure shall continue for five days after Landlord's second written notice thereof to Tenant;

(d) **Insurance.** Tenant fails to procure, maintain and deliver to Landlord evidence of the insurance policies and coverages as required under Section 12(a);

(e) **Mechanic's Liens.** Tenant fails to pay and release of record, or diligently contest and bond around, any mechanic's lien filed against the Premises, including the Building, for any work performed, materials furnished, or obligation incurred by or at the request of Tenant, within the time and in the manner required by Section 8(d);

(f) **Other Defaults.** Tenant's failure to perform, comply with, or observe any other agreement or obligation of Tenant under this Lease and the continuance of such failure for a period of more than 30 days after Landlord has delivered to Tenant written notice thereof; and

(g) **Insolvency.** The filing of a petition by or against Tenant (the term "Tenant" shall include, for the purpose of this Section 18(g), any guarantor of Tenant's obligations hereunder) (1) in any bankruptcy or other insolvency proceeding; (2) seeking any relief under any state or federal debtor relief law; (3) for the appointment of a liquidator or receiver for all or substantially all of Tenant's property or for Tenant's interest in this Lease; (4) for the reorganization or modification of Tenant's capital structure; or (5) in any assignment for the benefit of creditors proceeding; however, if such a petition is filed against Tenant, then such filing shall not be an Event of Default unless Tenant fails to have the proceedings initiated by such petition dismissed within 90 days after the filing thereof.

19. **Remedies.** Upon any Event of Default, Landlord may, in addition to all other rights and remedies afforded Landlord hereunder or by law or equity, take any one or more of the following actions:

(a) **Termination of Lease.** Terminate this Lease by giving Tenant written notice thereof, in which event Tenant shall pay to Landlord the sum of (1) all Rent accrued hereunder through the date of termination, (2) all amounts due under Section 20(a).

(b) **Reserved.**

(c) **Perform Acts on Behalf of Tenant.** Perform any act Tenant is obligated to perform under the terms of this Lease (and enter upon the Premises in connection therewith if necessary) in Tenant's name and on Tenant's behalf, without being liable for any claim for damages therefor, and Tenant shall reimburse Landlord on demand for any expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease (including, but not limited to, collection costs and legal expenses), plus interest thereon at the Default Rate;

(d) **Suspension of Services.** Suspend any services required to be provided by Landlord hereunder without being liable for any claim for damages therefor; or

(e) **Reserved.**

20. **Payment by Tenant; Non-Waiver; Cumulative Remedies.**

(a) **Payment by Tenant.** Upon any Event of Default by Tenant, Tenant shall pay to Landlord all costs incurred by Landlord (including court costs and reasonable attorneys' fees and expenses) in (1) obtaining possession of the Premises, (2) removing and storing Tenant's or any other occupant's property, (3) performing Tenant's obligations which Tenant failed to perform, and (4) enforcing, or advising Landlord of, its rights, remedies, and recourses arising out of the default. To the full extent permitted by law, Landlord and Tenant agree the

federal and state courts of the state in which the Premises are located shall have exclusive jurisdiction over any matter relating to or arising from this Lease and the parties' rights and obligations under this Lease.

(b) **No Waiver.** Landlord's acceptance of Rent following an Event of Default shall not waive Landlord's rights regarding such Event of Default. No waiver by Landlord of any violation or breach of any of the terms contained herein shall waive Landlord's rights regarding any future violation of such term. Landlord's acceptance of any partial payment of Rent shall not waive Landlord's rights with regard to the remaining portion of the Rent that is due, regardless of any endorsement or other statement on any instrument delivered in payment of Rent or any writing delivered in connection therewith; accordingly, Landlord's acceptance of a partial payment of Rent shall not constitute an accord and satisfaction of the full amount of the Rent that is due.

(c) **Cumulative Remedies.** Any and all remedies set forth in this Lease: (1) shall be in addition to any and all other remedies Landlord may have at law or in equity, (2) shall be cumulative, and (3) may be pursued successively or concurrently as Landlord may elect. The exercise of any remedy by Landlord shall not be deemed an election of remedies or preclude Landlord from exercising any other remedies in the future. Additionally, Tenant shall defend, indemnify and hold harmless Landlord, Landlord's Mortgagee and their respective representatives and agents from and against all claims, demands, liabilities, causes of action, suits, judgments, damages and expenses (including reasonable attorneys' fees) arising from Tenant's failure to perform its obligations under this Lease.

21. **Surrender of Premises.** No act by Landlord shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the Premises shall be valid unless it is in writing and signed by Landlord. At the expiration or termination of this Lease, Tenant shall deliver to Landlord the Premises with all improvements located therein in good repair and condition, free of Hazardous Materials placed on the Premises during the Term (or Tenant's pre-Term occupancy period), broom-clean, reasonable wear and tear excepted, and shall deliver to Landlord all keys to the Premises. Provided that Tenant has performed all of its obligations hereunder, Tenant may remove all unattached trade fixtures, furniture, and personal property placed in the Premises or elsewhere in the Building by Tenant (but Tenant may not remove any such item which was paid for, in whole or in part, by Landlord or any wiring or cabling unless Landlord requires such removal). Additionally, at Landlord's option, Tenant shall remove such alterations, additions, improvements, trade fixtures, personal property, equipment (including mechanical equipment and alarm systems), wiring, conduits, cabling, and furniture as Landlord may request; however, Tenant shall not be required to remove any addition or improvement to the Premises or the Building if Landlord has specifically agreed in writing that the improvement or addition in question need not be removed. Tenant shall repair all damage caused by such removal. All items not so removed shall, at Landlord's option, be deemed to have been abandoned by Tenant and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Landlord without notice to Tenant and without any obligation to account for such items.

22. **Holding Over.** If Tenant fails to vacate the Premises at the end of the Term or earlier termination as may be provide herein, then Tenant shall be a tenant at sufferance and, in addition to all other damages and remedies to which Landlord may be entitled for such holding over, (a) Tenant shall pay, in addition to the other Rent, Basic Rent equal to fair market rental

rate for the Premises as reasonably determined by Landlord, and (b) Tenant shall otherwise continue to be subject to all of Tenant's obligations under this Lease. The provisions of this Section 22 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law. If Tenant fails to surrender the Premises upon the termination or expiration of this Lease, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord harmless from all loss, costs (including reasonable attorneys' fees) and liability resulting from such failure, including any claims made by any succeeding tenant founded upon such failure to surrender, and any lost profits to Landlord resulting therefrom.

23. **Certain Rights Reserved by Landlord.** Provided that the exercise of such rights does not unreasonably interfere with Tenant's occupancy of the Premises, Landlord shall have the right to enter the Premises at all reasonable hours to show the Premises to prospective purchasers or lenders, and at any time during the last 12 months of the Term (or earlier if Tenant has notified Landlord in writing that it does not desire to renew the Term) or at any time following the occurrence of an Event of Default, to enter the Premises at all reasonable hours to show the Premises to prospective tenants. The rights reserved by Landlord under this Section 23 are not exhaustive.

24. **Miscellaneous.**

(a) **Landlord Transfer.** Landlord may transfer any portion of the Premises and any of its rights under this Lease. If Landlord assigns its rights under this Lease, then Landlord shall thereby be released from any further obligations hereunder arising after the date of transfer, provided that the assignee assumes in writing Landlord's obligations hereunder arising from and after the transfer date.

(b) **Landlord's Liability.** The liability of Landlord (and its partners, shareholders or members) to Tenant (or any person or entity claiming by, through or under Tenant) for any default by Landlord under the terms of this Lease or any matter relating to or arising out of the occupancy or use of the Premises and/or other areas of the Building shall be limited to Tenant's actual direct, but not consequential, damages therefor and shall be recoverable only from the interest of Landlord in the Building, and Landlord (and its partners, shareholders or members) shall not be personally liable for any deficiency.

(c) **Force Majeure.** Other than for Tenant's obligations under this Lease that can be performed by the payment of money (e.g., payment of Rent and maintenance of insurance), whenever a period of time is herein prescribed for action to be taken by either party hereto, such party shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, terrorist acts or activities, governmental laws, regulations, or restrictions, or any other causes of any kind whatsoever which are beyond the control of such party.

(d) **Brokerage.** Neither Landlord nor Tenant has dealt with any broker or agent in connection with the negotiation or execution of this Lease. Tenant and Landlord shall each indemnify the other against all costs, expenses, attorneys' fees, liens and other liability for commissions or other compensation claimed by any other broker or agent claiming the same by, through, or under the indemnifying party.

(e) **Estoppel Certificates.** From time to time, Tenant shall furnish to any party designated by Landlord, within ten days after Landlord has made a request therefor, a certificate signed by Tenant confirming and containing such factual certifications and representations as to this Lease as Landlord may reasonably request. Unless otherwise required by Landlord's Mortgagee or a prospective purchaser or mortgagee of the Premises, the initial form of estoppel certificate to be signed by Tenant is attached hereto as Exhibit B. If Tenant does not deliver to Landlord the certificate signed by Tenant within such required time period, Landlord, Landlord's Mortgagee and any prospective purchaser or mortgagee, may conclusively presume and rely upon the following facts: (1) this Lease is in full force and effect; (2) the terms and provisions of this Lease have not been changed except as otherwise represented by Landlord; (3) not more than one annual installment of Basic Rent and other charges have been paid in advance; (4) there are no claims against Landlord nor any defenses or rights of offset against collection of Rent or other charges; and (5) Landlord is not in default under this Lease. In such event, Tenant shall be estopped from denying the truth of the presumed facts.

(f) **Notices.** All notices and other communications given pursuant to this Lease shall be in writing and shall be (1) mailed by first class, United States Mail, postage prepaid, certified, with return receipt requested, and addressed to the parties hereto at the address specified in the Basic Lease Information, (2) hand-delivered to the intended addressee, (3) sent by a nationally recognized overnight courier service, or (4) sent by facsimile transmission during normal business hours followed by a confirmatory letter sent in another manner permitted hereunder. All notices shall be effective upon delivery to the address of the addressee (even if such addressee refuses delivery thereof). The parties hereto may change their addresses by giving notice thereof to the other in conformity with this provision.

(g) **Separability.** If any clause or provision of this Lease is illegal, invalid, or unenforceable under present or future laws, then the remainder of this Lease shall not be affected thereby and in lieu of such clause or provision, there shall be added as a part of this Lease a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

(h) **Amendments; Binding Effect; No Electronic Records.** This Lease may not be amended except by instrument in writing signed by Landlord and Tenant. No provision of this Lease shall be deemed to have been waived by Landlord unless such waiver is in writing signed by Landlord, and no custom or practice which may evolve between the parties in the administration of the terms hereof shall waive or diminish the right of Landlord to insist upon the performance by Tenant in strict accordance with the terms hereof. Landlord and Tenant hereby agree not to conduct the transactions or communications contemplated by this Lease by electronic means, except by facsimile transmission as specifically set forth in Section 24(f); nor shall the use of the phrase "in writing" or the word "written" be construed to include electronic communications except by facsimile transmissions as specifically set forth in Section 24(f). The terms and conditions contained in this Lease shall inure to the benefit of and be binding upon the parties hereto, and upon their respective successors in interest and legal representatives, except as otherwise herein expressly provided. This Lease is for the sole benefit of Landlord and Tenant, and, other than Landlord's Mortgagee, no third party shall be deemed a third party beneficiary hereof.

(i) **Quiet Enjoyment.** Provided Tenant has performed all of its obligations hereunder, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term, without

hindrance from Landlord or any party claiming by, through, or under Landlord, but not otherwise, subject to the terms and conditions of this Lease.

(j) **No Offer.** The submission of this Lease to Tenant shall not be construed as an offer, and Tenant shall not have any rights under this Lease unless Landlord executes a copy of this Lease and delivers it to Tenant.

(k) **Entire Agreement.** This Lease constitutes the entire agreement between Landlord and Tenant regarding the subject matter hereof and supersedes all oral statements and prior writings relating thereto. Except for those set forth in this Lease, no representations, warranties, or agreements have been made by Landlord or Tenant to the other with respect to this Lease or the obligations of Landlord or Tenant in connection therewith. The normal rule of construction that any ambiguities be resolved against the drafting party shall not apply to the interpretation of this Lease or any exhibits or amendments hereto.

(l) **Waiver of Jury Trial.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, LANDLORD AND TENANT EACH WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LITIGATION OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE ARISING OUT OF OR WITH RESPECT TO THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS RELATED HERETO.

(m) **Governing Law.** This Lease shall be governed by and construed in accordance with the laws of the State of Arizona.

(n) **Recording.** Tenant shall not record this Lease or any memorandum of this Lease without the prior written consent of Landlord, which consent may be withheld or denied in the sole and absolute discretion of Landlord, and any recordation by Tenant shall be a material breach of this Lease. Tenant grants to Landlord a power of attorney to execute and record a release releasing any such recorded instrument of record that was recorded without the prior written consent of Landlord.

(o) **Water or Mold Notification.** To the extent Tenant or its agents or employees discover any water leakage, water damage or mold in or about the Premises or the Building, Tenant shall promptly notify Landlord thereof in writing.

(p) **Joint and Several Liability.** If Tenant is comprised of more than one party, each such party shall be jointly and severally liable for Tenant's obligations under this Lease. All unperformed obligations of Tenant hereunder not fully performed at the end of the Term shall survive the end of the Term, including payment obligations with respect to Rent and all obligations concerning the condition and repair of the Premises.

(q) **Intentionally deleted**

(r) **Landlord's Fees.** Whenever Tenant requests Landlord to take any action not required of it hereunder or give any consent required or permitted under this Lease, Tenant will reimburse Landlord for Landlord's reasonable, out-of-pocket costs payable to third parties and incurred by Landlord in reviewing the proposed action or consent, including reasonable attorneys', engineers' or architects' fees, within 30 days after Landlord's delivery to Tenant of a statement of such costs; provided, Tenant's obligation under this paragraph shall be subject to delivery by Landlord to Tenant in advance of a good faith estimate of such fees and expenses that Landlord anticipates will be incurred and Tenant's agreement to pay such fees, costs and

expenses. Tenant will be obligated to make such reimbursement without regard to whether Landlord consents to any such proposed action.

(s) **Intentionally deleted**

(t) **Intentionally deleted**

(u) **Authority.** Tenant (if a corporation, partnership or other business entity) hereby represents and warrants to Landlord that Tenant is and will remain during the Term a duly formed and existing entity qualified to do business in the state in which the Premises are located, that Tenant has full right and authority to execute and deliver this Lease, and that each person signing on behalf of Tenant is authorized to do so. Landlord hereby represents and warrants to Tenant that Landlord is a duly formed and existing entity qualified to do business in the state in which the Premises are located, that Landlord has full right and authority to execute and deliver this Lease, and that each person signing on behalf of Landlord is authorized to do so.

(v) **Security Service.** Tenant acknowledges and agrees that, while Landlord may (but shall not be obligated to) patrol the Building, Landlord is not providing any security services with respect to the Premises and that Landlord shall not be liable to Tenant for, and Tenant waives any claim against Landlord with respect to, any loss by theft or any other damage suffered or incurred by Tenant in connection with any unauthorized entry into the Premises.

(w) **List of Exhibits.** All exhibits and attachments attached hereto are incorporated herein by this reference.

Exhibit A - Description of the Land
Exhibit B - Form of Tenant Estoppel Certificate
Exhibit C - Building Rules and Regulations.

(x) **Prohibited Persons and Transactions.** Tenant represents and warrants that neither Tenant nor any of its affiliates, nor any of their respective partners, members, shareholders or other equity owners, and none of their respective employees, officers, directors, representatives or agents is, nor will they become, a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Assets Control ("**OFAC**") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and will not Transfer this Lease to, contract with or otherwise engage in any dealings or transactions or be otherwise associated with such persons or entities.

25. **Environmental Requirements.**

(a) **Prohibition against Hazardous Materials.** Except for Hazardous Materials contained in products used by Tenant in *de minimis* quantities for ordinary cleaning and office purposes, Tenant shall not permit or cause any party to bring any Hazardous Materials upon the Premises, including the Building, or transport, store, use, generate, manufacture, dispose, or release any Hazardous Materials on or from the Premises, including the Building, without Landlord's prior written consent. Tenant, at its sole cost and expense, shall operate its business in the Premises in strict compliance with all Environmental Requirements and all requirements of this Lease. Tenant shall complete and certify to disclosure statements as requested by Landlord from time to time relating to Tenant's transportation, storage, use,

generation, manufacture, or release of Hazardous Materials on the Premises, including the Building, and Tenant shall promptly deliver to Landlord a copy of any notice of violation relating to the Premises, including the Building, of any Environmental Requirement.

(b) **Environmental Requirements.** The term “**Environmental Requirements**” means all Laws regulating or relating to health, safety, or environmental conditions on, under, or about the Premises, including the Building, or the environment including the following: the Comprehensive Environmental Response, Compensation and Liability Act; the Resource Conservation and Recovery Act; the Clean Air Act; the Clean Water Act; the Toxic Substances Control Act and all state and local counterparts thereto, and any common or civil law obligations including nuisance or trespass, and any other requirements of Section 14 and Exhibit C of this Lease. The term “**Hazardous Materials**” means and includes any substance, material, waste, pollutant, or contaminant that is or could be regulated under any Environmental Requirement or that may adversely affect human health or the environment, including any solid or hazardous waste, hazardous substance, asbestos, petroleum (including crude oil or any fraction thereof, natural gas, synthetic gas, polychlorinated biphenyls (PCBs), and radioactive material). For purposes of Environmental Requirements, to the extent authorized by law, Tenant is and shall be deemed to be the responsible party, including the “owner” and “operator” of Tenant’s “facility” and the “owner” of all Hazardous Materials brought on the Premises, including the Building by a Tenant Party and the wastes, by-products, or residues generated, resulting, or produced therefrom.

(c) **Removal of Hazardous Materials.** Tenant, at its sole cost and expense, shall remove all Hazardous Materials stored, disposed of or otherwise released by a Tenant Party onto or from the Premises, including the Building, in a manner and to a level satisfactory to Landlord in its sole discretion, but in no event to a level and in a manner less than that which complies with all Environmental Requirements and does not limit any future uses of the Premises, including the Building, or require the recording of any deed restriction or notice regarding the Premises, including the Building. Tenant shall perform such work at any time during the period of this Lease upon written request by Landlord or, in the absence of a specific request by Landlord, before Tenant’s right to possession of the Premises terminates or expires. If Tenant fails to perform such work within the time period specified by Landlord or before Tenant’s right to possession terminates or expires (whichever is earlier), Landlord may at its discretion, and without waiving any other remedy available under this Lease or at law or equity (including an action to compel Tenant to perform such work), perform such work at Tenant’s cost. Tenant shall pay all costs incurred by Landlord in performing such work within ten days after Landlord’s request therefor. Such work performed by Landlord is on behalf of Tenant and Tenant remains the owner, generator, operator, transporter, and/or arranger of the Hazardous Materials for purposes of Environmental Requirements. Tenant agrees not to enter into any agreement with any person, including any governmental authority, regarding the removal of Hazardous Materials that have been disposed of or otherwise released onto or from the Premises, including the Building without the written approval of the Landlord.

(d) **Tenant’s Indemnity.** To the fullest extent permitted by applicable Laws, Tenant shall indemnify, defend, protect, and hold Landlord harmless from and against any and all losses (including diminution in value of the Premises, including the Building, and loss of rental income from the Premises), claims, demands, actions, suits, damages (including punitive damages), expenses (including remediation, removal, repair, corrective action, or cleanup

expenses), and costs (including actual attorneys' fees, consultant fees or expert fees and including removal or management of any asbestos brought into the Premises, including the Building or disturbed in breach of the requirements of this Section 25, regardless of whether such removal or management is required by Law) which are brought or recoverable against, or suffered or incurred by Landlord as a result of any release of Hazardous Materials or any breach of the requirements under this Section 25 by a Tenant Party regardless of whether Tenant had knowledge of such noncompliance. The obligations of Tenant under this Section 25 shall survive any expiration or termination of this Lease.

(e) **Inspections and Tests.** Landlord shall have access to, and a right to perform inspections and tests of, the Premises, upon reasonable notice to Tenant, to determine Tenant's compliance with Environmental Requirements, its obligations under this Section 25, or the environmental condition of the Premises. Tenant shall have the opportunity to be present during any such tests. Access shall be granted to Landlord upon Landlord's prior notice to Tenant and at such times so as to minimize, so far as may be reasonable under the circumstances, any disturbance to Tenant's operations. Such inspections and tests shall be conducted at Tenant's expense. Landlord's receipt of or satisfaction with any environmental assessment in no way waives any rights that Landlord holds against Tenant. Tenant shall promptly notify Landlord of any communication or report that Tenant makes to any governmental authority regarding any possible violation of Environmental Requirements or release or threat of release of any Hazardous Materials onto or from the Premises, including the Building. Tenant shall, within five days of receipt thereof, provide Landlord with a copy of any documents or correspondence received from any governmental agency or other party relating to a possible violation of Environmental Requirements or claim or liability associated with the release or threat of release of any Hazardous Materials onto or from the Premises, including the Building.

(f) **Tenant's Financial Assurance in the Event of a Breach.** In addition to all other rights and remedies available to Landlord under this Lease or otherwise, Landlord may, in the event of a breach of the requirements of this Section 25 that is not cured within 30 days following notice of such breach by Landlord, require Tenant to provide financial assurance (such as insurance, escrow of funds or third party guarantee) in an amount and form satisfactory to Landlord. The requirements of this Section 25 are in addition to and not in lieu of any other provision in this Lease.

26. **Parking.** Tenant shall have the non-exclusive right to use the parking spaces in the Premises associated with the Building. Parking spaces will be available to Tenant without charge during the initial Term.

27. **Other Provisions.**

(a) **Landlord's Early Termination Right.** Landlord may terminate this Lease for any reason whatsoever with at least six (6) months days prior notice to Tenant. The foregoing provision is material consideration to Landlord and the parties would not have entered into this Lease but for such early termination right.

(b) **Tenant's Early Termination Right.** Tenant may terminate this Lease for any reason whatsoever with at least six (6) months prior notice to Landlord.

(c) **Conveyance of Building.** Provided no uncured event of Tenant default exists under this Lease, then Landlord may, but does not have the affirmative obligation to,

quitclaim, transfer and convey the Building, without any representations or warranties, expressed or implied, whatsoever, to Tenant upon the expiration of the Term by a bill of sale in form reasonably acceptable to Landlord; provided, Tenant shall have no obligation to accept the Building.

(d) **Conflict of Interest.** This Lease is subject to the provisions of A.R.S. Section 38-511 and may be canceled by the Tenant upon delivery of written notice thereof to Landlord specifically setting forth the circumstances giving rise to such cancellation right, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Lease on behalf of the Tenant is, or becomes, an employee, consultant, or agent of Landlord in any capacity with respect to the subject matter of this Lease while the Lease, or any extension or amendment thereof, is in effect.

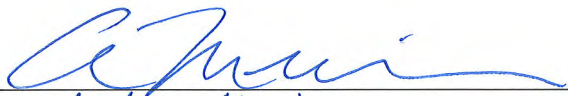
(e) **Counterparts.** The parties agree that this Lease may be executed by the parties in one or more counterparts and each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

LANDLORD AND TENANT EXPRESSLY DISCLAIM ANY IMPLIED WARRANTY THAT THE PREMISES ARE SUITABLE FOR TENANT'S INTENDED COMMERCIAL PURPOSE, AND TENANT'S OBLIGATION TO PAY RENT HEREUNDER IS NOT DEPENDENT UPON THE CONDITION OF THE PREMISES OR THE PERFORMANCE BY LANDLORD OF ITS OBLIGATIONS HEREUNDER, AND, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, TENANT SHALL CONTINUE TO PAY THE RENT, WITHOUT ABATEMENT, DEMAND, SETOFF OR DEDUCTION, NOTWITHSTANDING ANY BREACH BY LANDLORD OF ITS DUTIES OR OBLIGATIONS HEREUNDER, WHETHER EXPRESS OR IMPLIED.

This Lease is executed on the respective dates set forth below, but for reference purposes, this Lease shall be dated as of the date first above written. If the execution date is left blank, this Lease shall be deemed executed as of the date first written above.

LANDLORD:

ARCUS PRIVATE CAPITAL SOLUTIONS, LLC, an Arizona limited liability company

By: 
Name: Andrew Martin
Title: Manager

TENANT:

THE CITY OF GOODYEAR, an Arizona municipal corporation

By: _____
Name: _____
Title: _____

Attested: _____
City Clerk

Approved: _____
City Attorney

EXHIBIT A

DESCRIPTION OF THE LAND

**LEGAL DESCRIPTION
AMARANTH POLICE AND FIRE SITE
GOODYEAR, ARIZONA**

A portion of the northeast quarter of Section 29, Township 4 South, Range 1 East of the Gila and Salt River Meridian, Maricopa County, Arizona being described as follows:

COMMENCING at a GLO brass cap found at the northeast corner of said Section 29, from which a GLO brass cap found at the east quarter of said Section 29 bears South, 2,640.96 feet; thence along the east line of the northeast quarter of said Section 29, South, 544.48 feet to the TRUE POINT OF BEGINNING;

thence continuing along said line, South, 183.50 feet;

thence West, 142.00 feet;

thence South, 69.50 feet;

thence West, 123.50 feet;

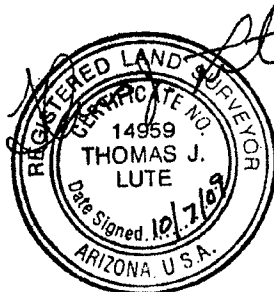
thence North, 178.50 feet;

thence East, 40.50 feet;

thence North, 74.50 feet;

thence East, 225.00 feet to the TRUE POINT OF BEGINNING.

Said parcel containing 54,285 square feet or 1.246 acres, more or less.

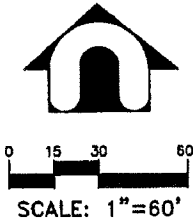


Expires 06/30/2012

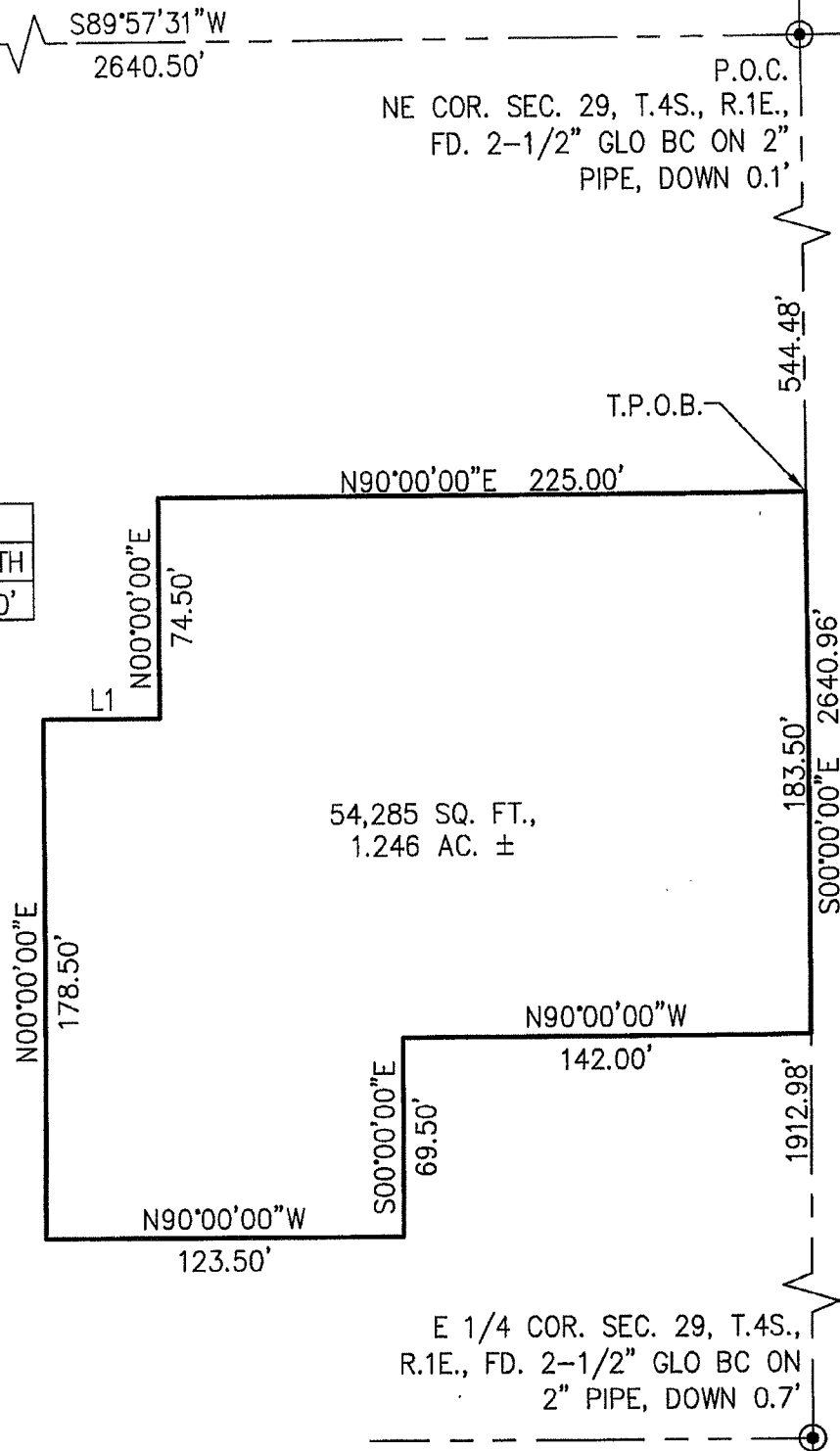
Con-CK-1577-10

N 1/4 COR. SEC.
29, T.4S., R.1E.,
FD. 1" I.P., UP 0.3'

NE COR. SEC. 29, T.4S., R.1E.,
FD. 2-1/2" GLO BC ON 2"
PIPE, DOWN 0.1'



LINE TABLE		
LINE	BEARING	LENGTH
L1	N90°00'00"E	40.50'



T.P.O.B.

E 1/4 COR. SEC. 29, T.4S.,
R.1E., FD. 2-1/2" GLO BC ON
2" PIPE, DOWN 0.7'

SCALE:
1"=60'

SHEET
OF

JOB NO.:
TROT00000001

EXHIBIT **AMARANTH POLICE AND FIRE SITE** **GOODYEAR, ARIZONA**



**DAVID EVANS
AND ASSOCIATES INC.**
2141 East Highland Avenue, Suite 200
Phoenix Arizona 85016
Phone: 602.678.5151

DRAWN BY: KLM

CHECKED BY:

DATE: 07/07

Con-4-1577-10

EXHIBIT B

FORM OF TENANT ESTOPPEL CERTIFICATE

The undersigned is the Tenant under the Lease (defined below) between _____, a _____, as Landlord, and the undersigned as Tenant, for the Premises on the _____ floor(s) of the office building located at _____, _____ and commonly known as _____, and hereby certifies as follows:

1. The Lease consists of the original Lease Agreement dated as of _____, 20____, between Tenant and Landlord[*'s predecessor-in-interest*] and the following amendments or modifications thereto (if none, please state "none"):

The documents listed above are herein collectively referred to as the "**Lease**" and represent the entire agreement between the parties with respect to the Premises. All capitalized terms used herein but not defined shall be given the meaning assigned to them in the Lease.

2. The Lease is in full force and effect and has not been modified, supplemented or amended in any way except as provided in Section 1 above.

3. The Term commenced on _____, 20____, and the Term expires, excluding any renewal options, on _____, 20____, and Tenant has no option to purchase all or any part of the Premises or the Building or, except as expressly set forth in the Lease, any option to terminate or cancel the Lease.

4. Tenant currently occupies the Premises described in the Lease and Tenant has not transferred, assigned, or sublet any portion of the Premises nor entered into any license or concession agreements with respect thereto except as follows (if none, please state "none"):

5. All annual installments of Basic Rent, all Additional Rent and all annual installments of estimated Additional Rent have been paid when due through _____. The current monthly installment of Basic Rent is \$_____.

6. All conditions of the Lease to be performed by Landlord necessary to the enforceability of the Lease have been satisfied and Landlord is not in default thereunder. In addition, Tenant has not delivered any notice to Landlord regarding a default by Landlord thereunder.

7. As of the date hereof, there are no existing defenses or offsets, or, to the undersigned's knowledge, claims or any basis for a claim, that the undersigned has against Landlord and no event has occurred and no condition exists, which, with the giving of notice or the passage of time, or both, will constitute a default under the Lease.

8. No rental has been paid more than 30 days in advance and no security deposit has been delivered to Landlord except as provided in the Lease.

9. If Tenant is a corporation, partnership or other business entity, each individual executing this Estoppel Certificate on behalf of Tenant hereby represents and warrants that Tenant is and will remain during the Term a duly formed and existing entity qualified to do business in the state in which the Premises are located and that Tenant has full right and authority to execute and deliver this Estoppel Certificate and that each person signing on behalf of Tenant is authorized to do so.

10. There are no actions pending against Tenant under any bankruptcy or similar laws of the United States or any state.

11. Other than in compliance with all applicable laws and incidental to the ordinary course of the use of the Premises, the undersigned has not used or stored any hazardous substances in the Premises.

12. All tenant improvement work to be performed by Landlord under the Lease has been completed in accordance with the Lease and has been accepted by the undersigned and all reimbursements and allowances due to the undersigned under the Lease in connection with any tenant improvement work have been paid in full.

Tenant acknowledges that this Estoppel Certificate may be delivered to Landlord, Landlord's Mortgagee or to a prospective mortgagee or prospective purchaser, and their respective successors and assigns, and acknowledges that Landlord, Landlord's Mortgagee and/or such prospective mortgagee or prospective purchaser will be relying upon the statements contained herein in disbursing loan advances or making a new loan or acquiring the property of which the Premises are a part and that receipt by it of this certificate is a condition of disbursing loan advances or making such loan or acquiring such property.

Executed as of _____, 20__.

TENANT:

_____, a

By: _____

Name: _____

Title: _____

EXHIBIT C

BUILDING RULES AND REGULATIONS

The following rules and regulations shall apply to the Premises, the Building, the parking areas associated therewith, and the appurtenances thereto:

1. Sidewalks, doorways, vestibules, halls, stairways, loading dock areas and associated overhead doors, and other similar areas shall not be obstructed by tenants or used by any tenant for purposes other than ingress and egress to and from their respective leased premises and for going from one to another part of the Building.
2. Plumbing (including outside drains and sump pumps), fixtures and appliances shall be used only for the purposes for which designed, and no sweepings, rubbish, rags or other unsuitable material shall be thrown or deposited therein. Damage resulting to any such fixtures or appliances from misuse by a tenant or its agents, employees or invitees, shall be paid by such tenant.
3. No signs, advertisements or notices shall be painted or affixed on or to any windows or doors or other part of the Building visible from the exterior of the Premises without the prior written consent of Landlord. Except as consented to in writing by Landlord or in accordance with Tenant's building standard improvements, no draperies, curtains, blinds, shades, screens or other devices shall be hung at or used in connection with any window or exterior door or doors of the Premises. Tenant shall not place anything against or near glass partitions or doors, or windows which might appear unsightly from outside the Premises.
4. Landlord may prescribe weight limitations and determine the locations for safes and other heavy equipment or items, which shall in all cases be placed in the Building so as to distribute weight in a manner acceptable to Landlord which may include the use of such supporting devices as Landlord may require. All damages to the Building caused by the installation or removal of any property of a tenant, or done by a tenant's property while in the Building, shall be repaired at the expense of such tenant.
5. Tenant shall not keep in the Building any flammable or explosive fluid or substance. Tenant shall not install or operate any steam or gas engine or boiler, or other mechanical apparatus in the Premises without the prior written consent of Landlord. The use of oil, gas or inflammable liquids for heating, lighting or any other purpose is expressly prohibited. Explosives or other articles deemed extra hazardous shall not be brought into the Building, except as may be typically used in the ordinary course of business in the uses provided for in this lease.
6. Landlord will not be responsible for lost or stolen personal property, money or jewelry from tenant's leased premises or public or common areas regardless of whether such loss occurs when the area is locked against entry or not.
7. All vehicles are to be currently licensed, in good operating condition, parked for business purposes having to do with Tenant's business operated in the Premises. No vehicle shall be parked as a "billboard" vehicle in the parking lot. Tenant shall not permit dumping of waste or refuse or permit any harmful materials to be placed in any drainage system or sanitary system in or about the Premises.
8. Tenant shall not install or operate on the Premises any machinery or mechanical devices of a nature not directly related to Tenant's ordinary use of the Premises.
9. Tenant shall not permit its employees, invitees or guests to smoke in the Premises or the lobbies, passages, corridors, elevators, vending rooms, rest rooms, stairways or any other area shared in common

with other tenants in the Building, or permit its employees, invitees, or guests to loiter at the Building entrances for the purposes of smoking. Landlord may, but shall not be required to, designate an area for smoking outside the Building.