

REVOCABLE LICENSE AND HOLD HARMLESS AGREEMENT

THIS LIMITED ACCESS AND REVOCABLE LICENSE AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2024, by and between the City of Phoenix, an Arizona municipal corporation (the "City" or "Licensor") and the City of Goodyear, an Arizona municipal corporation and the Goodyear Police Department ("Goodyear" or "Licensee")(collectively referred to as the "Parties" or individually as a "Party").

RECITALS

1. The City and the City of Phoenix Police Department owns and operates property located at 8645 W Broadway Rd., Phoenix, AZ 85353, known as the Phoenix Emergency Vehicle Operations Center ("EVOC" or "Premises").
2. Goodyear has requested to utilize the Premises for training law enforcement personnel, including Goodyear police officers and police recruits.
3. The City recognizes the mutual benefit of cooperative law enforcement efforts and is willing, subject to the terms and conditions of this Agreement, to provide Goodyear the right to use the Premises for the stated purpose.
4. The City wishes to preserve the right to have access to and use of the Premises.
5. The City and Goodyear desire to define, create, and establish the rights and obligations of the Parties with respect to the Licensee's use of the Premises.

NOW, THEREFORE, for good and valuable consideration, the Parties mutually agree as follows:

AGREEMENT

1. **Recitals.** The above recitals are true and correct and incorporated herein by this reference.
2. **Term and Termination.** The term of this Agreement ("Term") shall commence on the date of final signature of the Parties ("Commencement Date") and shall end on the earlier to occur of either one (1) year from the Commencement Date or upon written notice of termination from the terminating Party to the other Party. Either Party may terminate the Agreement for convenience and notice of termination shall be considered final and shall not be appealable. In the event of emergency or in consideration in the best interest of the Phoenix Police Department (PPD), the PPD Chief of Police, or their designee, may terminate this Agreement and all rights contained herein without notice and will provide notice of Termination to Licensee as soon as practicable.

3. Grant of License.

- a. The City hereby grants to Licensee the right to use the designated area(s) of "EVOC" within the Premises for law enforcement training exercises as may be reasonably required to the extent that such use does not interfere, impede, or otherwise disrupt City operations or services including the ability to place all necessary personnel and equipment on City property, provided Licensee agrees to remove the same after completion of their scheduled activity or if immediate removal is requested by the City or the Chief of Police or their designee, provided Licensee restores the Premises, and any improvements disturbed by such activity, to its former condition within thirty (30) days from the date the City provides written demand for such restoration. Licensee may also have access through the halls, corridors and adjacent areas not covered by this Agreement for entry, exit, and preparation of the contemplated training activities.
- b. Nothing in this Agreement shall be deemed to create a property right for Licensee to the Premises or any other portion of City owned property, nor to permit Licensee use of any area beyond the designated area of the Premises.
- c. Nothing in this Agreement shall be construed as giving Licensee any exclusive rights or privileges. Licensee's use of the Premises shall be subordinate to the City's use of the Licensed area(s).
- d. Licensee shall provide, in advance, a tentative schedule of training and the City agrees that Licensee will have reasonable access to the Premises in accordance with the agreed upon dates and times, which may be subject to change by Licensee as needed and with notification to the City in accordance with this Agreement.
- e. This Agreement and License may not be transferred, assigned, or sub-licensed, and any purported transfer, assignment, or sublicense is void.

4. The City shall maintain:

- a. the right to restrict access to areas of City property, City facilities, City records, or equipment; and
- b. right to require immediate removal of installed furnishings, equipment, weapons, vehicles, and all property ("Equipment"), and temporary structures if this License is revoked or if circumstances require removal due to Phoenix Police Department necessity.

5. Licensee Responsibilities.

- a. Licensee is responsible for and will maintain custody of all of Licensee's equipment, weapons, vehicles, and all property ("Equipment") brought onto the Premises and onto adjacent areas of the Premises for the purposes contemplated in this Agreement and Licensee assumes all liability for any and all damage or loss incurred. Equipment

and any other personal property located in Premises belonging to Licensee may be located on Premises at the sole risk of the Licensee, and City will not be liable for damage, theft, misappropriation, or loss to Equipment except for damage caused by City's gross negligence or willful acts, errors, or omissions.

- b. Licensee is solely responsible for all Licensee personnel and personnel related to and participating in their training events.
 - c. Licensee will conduct the training exercises and all associated activities at its sole cost and expense, including, but not limited to, all work necessary for planning, selection of support personnel and equipment, scheduling, and management and execution of the Training Operation. The City shall bear no cost of the same.
 - d. Licensee is responsible for planning and handling the coordination for each law enforcement training exercise and is responsible for providing the contact information of the assigned Exercise Coordinator for each training event. Licensee will provide continuous liaison and coordination during the use of the Premises and shall meet to discuss any required preparations and the scope of the law enforcement training activities before the commencement of each exercise.
 - e. Licensee agrees that safety is of the highest concern during all phases of the exercises and agrees that they will employ safe and sound operating procedures and no training will be conducted at the expense of appropriate and acceptable safety standards and procedures. Licensee will coordinate with local medical and emergency facilities to be ready and available to respond to accidents and emergencies, to include medical response for Licensee personnel and hazardous waste cleanup.
 - f. Licensee will ensure that environmental protection measures are set into place during each exercise. Licensee will provide initial containment and begin initial documentation for any hazardous spills, no matter the size or quantity, associated with the exercises and shall notify the City of such spills as soon as practicable but prior to departure from the Property. Any spill quantity reaching external agency reporting thresholds will be done by Licensee as specified by and in accordance with applicable federal and state requirements. Licensee will also be responsible to provide spill or hazardous waste response in accordance with all applicable federal and state requirements.
 - g. Licensee will provide an onsite Exercise Coordinator to act as a facilitator between Licensee and City personnel to coordinate administrative issues and requests.
6. The City agrees to coordinate access to the Premises that can reasonably accomplish Licensee's mission and provide a Liaison Officer to act as a facilitator between the Parties and City personnel to coordinate administrative issues and requests.
7. **Condition of Premises; Assumption of Risk.** Premises are made available to Licensee "AS IS", "WHERE IS" and "WITH ALL FAULTS" in their present condition and City shall not be required to do any work to make ready the Premises for Licensee use thereof. Licensee

shall enter upon the Premises at its own risk, and City shall not be held responsible or liable for injury, damage, or loss incurred by Licensee arising out of or in connection with Licensee activities under this Agreement.

8. **Notice of Hazardous Conditions.** City makes no representation that the Premises is suitable for performing the law enforcement training exercises ("Licensed Activity"). Licensee representatives will inspect and evaluate the suitability and safety of the Premises prior to the Licensed Activity. Licensee acknowledges that the Premises may contain hazardous conditions. Any question of City's liability for damage or destruction to Licensee property or equipment, or injury to or death of Licensee employees, or participants in the Licensed Activity will take into account City's lack of any representations regarding the suitability and safety of the Premises, the duty of the Licensee to inspect and evaluate the Premises, and the Licensee notification, including within this agreement, of possible hazardous conditions when considering whether City breached any duty owed to Licensee that resulted in damage or injury.

9. **Notices and Communications.** All notices and other communication related to this Agreement shall be delivered to the Parties' representative at the telephone number, e-mail address, or mailing address specified below. All such communication shall be deemed to have been duly given (a) when transmitted if transmitted by telephone or e-mail before 5:00 p.m. PST (otherwise the next business day); (b) when delivered, if personally delivered; or (c) in the case of a mailed notice, three (3) business days after the date deposited in the U.S. Mail, postage prepaid. Telephone and e-mail communications are encouraged, but modification or termination of this agreement must be made in writing and delivered by courier or U.S. Mail to the following addresses. Either party may change its contact information by giving written notice to the other party.

CITY:
Phoenix Police Department
620 W. Washington St. 4th Floor Phoenix,

CITY OF GOODYEAR POLICE DEPT:
11 N. 145th Ave. Goodyear, AZ

Attn: Michael G. Sullivan
Phoenix Police Chief
Telephone: (602) 262-7626
Fax: (602) 495-0356

Notwithstanding the foregoing, in the event City notifies Goodyear to immediately terminate a law enforcement training exercise, such notice may be conveyed to Goodyear by an employee of City either in person or by telephone and shall be effective immediately.

10. Site Survey and Inspection.

a. The Parties agree that the City does not grant the right to use timber or any other

products of the land. Licensee will not modify any terrain or vegetation on the property. This includes, but is not limited to, digging, entrenching, and ground disturbing activities. The Parties agree that Licensee law enforcement personnel will only travel and park vehicles in designated areas and travel upon approved/authorized roads or areas. All equipment, vehicles, supplies and other Goodyear property placed on the Premises and at EVOC will be removed before the expiration of this Agreement, upon request of the Phoenix Chief of Police or their designee, or within a reasonable time thereafter if unforeseen circumstances prevent prompt removal.

- b. Licensee shall promptly the City prior to any use, entry, or occupancy in accordance with the **agreed upon schedule** and no less than thirty (30) days in advance. Direct notification by the Parties' points of contact (POC) is authorized. Normal operations permitting, the City will grant access to the property to Licensee's representatives at least seventy-two (72) hours prior to the training to inspect and evaluate the suitability and safety of the property for the proposed training. The Parties agree to conduct a joint walkthrough of the property prior to each scheduled training and will document any prior existing damage, dangers, hazards, or defects to located on the Premises.
- c. Within seventy-two (72) hours after a training event, representatives of each Party will conduct a second joint inspection to discuss cleanup and repair issues, if any. After the training event, Licensee will make a reasonable effort to return the condition of the Property to its status at the time it took possession, in accordance with Section 3 above. If any action of the Licensee's employees or agents in the exercise of this Agreement results in damage to the real property, Licensee will, at its option, either repair such damage or make an appropriate settlement with the City. In no event shall such repair or settlement exceed the fair market value of the real property at the time immediately preceding such damage. The provisions of this clause are without prejudice to any rights the City may have to make a claim under applicable laws or any other damages than provided herein.

11. **Public Record.** The parties acknowledge, accept, and agree that they are both subject to the Arizona Open Meeting Law, Arizona Revised Statutes (A.R.S.) §§ 38-431 through 38-431.09 and the Arizona Public Records Act, A.R.S. §§ 39-121 through 39-161, as amended from time to time. Information provided to the City may be subject to public record requests and may be disclosed and preserved as a public record when it is made or received by a governmental agency in pursuance of law or in connection with the transaction of public business and preserved by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of government. Where the City is the Recipient, the Discloser must clearly mark or designate Confidential Information as such to invoke the terms of this Agreement.

12. **Document Execution.** The Parties, or their duly authorized representatives, may have executed this Agreement in multiple original counterparts and in such case, each counterpart shall be deemed to be an original document for all purposes. Executed copies of this Agreement submitted to a party via electronic means, including, but not limited to, facsimile, PD, or other electronic files, shall be completely valid and fully enforceable.

13. **Termination.** The City may terminate this Agreement at any time and for any

reason, by giving Licensee written notice.

14. **Implied Contract Terms.** Every provision of law and any term required by law to be in this Agreement shall be read and enforced as though it were included. If a term is not included by mistake or any other reason, upon application by either Party, the Agreement shall be amended to include the term.
15. **Amendment.** This Agreement may only be amended in writing, with notice given to the Party representative named above.
16. **Governing Law; Forum; Venue:** This Agreement is executed and delivered in the State of Arizona, and the substantive laws of the State of Arizona (without reference to choice of law principles) will govern their interpretation and enforcement. Any action brought to interpret or enforce any provision of this Agreement that cannot be administratively resolved, or otherwise related to or arising from this Agreement, will be commenced, and maintained in the state or federal courts of the State of Arizona, Maricopa County, and each of the Parties, to the extent permitted by law, consents to jurisdiction and venue in such courts for such purposes.
17. **Third-Party Beneficiary Clause.** The Parties expressly agree that this Agreement is neither intended by any of its provisions to create any right of the public or any member thereof as a third Party beneficiary who is not an individual participating in the licensed activity and training, nor to authorize anyone not a Party, other than individuals participating in the licensed activity and training, to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.
18. **Transactional Conflict of Interest.** In addition to any termination and cancellation provisions, the Parties reserve all rights that each may have to cancel this Agreement for possible conflicts of interest under A.R.S. § 38-511, as amended.
19. **No Joint Venture.** No term or provision in this Agreement is intended to create a partnership, joint venture or agency arrangement between any of the Parties.
20. **Assignment and Delegation.** Neither this Agreement, nor any of its rights or obligations, may be transferred or assigned by either Party without the prior written consent of both Parties. Any attempt to assign this Agreement without prior written consent will be void and may result in penalties up to and including termination of the Agreement. The City agrees to allow Licensee to use EVOC under Goodyear Police Department supervision.
21. **Independent Contractor Status.** The Parties agree that neither Party shall be deemed to be an employee or agent of the other Party to this Agreement and that the relationship created by this Agreement is that of independent contractors. To the extent applicable by law, neither Goodyear nor any of Goodyear's agents, employees, contractors, subcontractors, volunteers, or helpers will be deemed to be the employee, agent, or servant of the City. To the extent applicable by law, neither City nor any of City's agents, employees, contractors, subcontractors, volunteers, or helpers will be deemed to be the employee, agent, or servant of Goodyear.

22. **Discrimination Prohibited.** Licensee agrees to abide by the provisions regarding discrimination in the Phoenix City Code Chapter 18, Article V as amended. Licensee must not, in its use of Premises, discriminate against any person on the ground of actual or perceived race, color, ethnicity, national origin, sex, religion, age, sexual orientation, gender identity, veteran status, disability, marital status, or familial status.
23. **Workers' Compensation.** Pursuant to A.R.S. §23-1022(D), for the purposes of workers' compensation coverage, all employees of each Party covered by this Agreement shall be deemed to be an employee of all Parties. The agency which regularly employs an employee entitled to workers' compensation arising out of work associated with this Agreement shall be the agency solely liable for payment of all workers' compensation and related benefits.
24. **Severability.** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract which shall remain in effect without the invalid provision or application.
25. **Non-Waiver.** Any City delay or failure to exercise or enforce any right, power, privilege, or remedy under this Agreement may not be deemed a waiver, release, or modification of the requirements of this Agreement or any of its terms or provisions.
26. **Compliance with Laws.** Licensee will comply with all existing and subsequently enacted federal, state and local laws, ordinances, codes, and regulations that are, or become applicable to this Agreement. If a subsequently enacted law imposes substantial additional costs, a request for an amendment may be submitted pursuant to this Agreement.
27. **Conduct.** Any use made of Premises pursuant to this Agreement must be in a manner satisfactory to the City and in accordance with any restrictions the City may impose. Licensee must refrain from interfering with City's operations at Locations and the convenience of the public or jeopardizing the safety of any persons or property at Locations.
28. **Drug Free Workplace.** The Parties will comply with the Drug Free Workplace Act of 1988 and will permit inspection of its personnel records to verify such compliance. A Party's breach of the above-mentioned warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement.
29. **Immigration Requirements.** The Parties will comply with the Immigration Reform and Control Act of 1986 ("IRCA") and will permit inspection of its personnel records to verify such compliance. To the extent applicable under A.R.S. § 41-4401, each Party warrants compliance with all federal immigration laws and regulations that relate to its employees and compliance with the E-verify requirements under A.R.S. § 23-214(A). Each Party has the right to inspect the papers of the other Parties participating in this Agreement to ensure compliance with this paragraph. A Party's breach of the above-mentioned warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement.
30. **Disposition of Property.** Upon cancellation or termination of this agreement, each party will retain ownership of their solely provided property for the purposes of disposing of property on such partial or complete termination.

31. **Legal Worker Requirements.** The City is prohibited by Arizona Revised Statutes § 41-4401 from awarding an agreement to any organization who fails, or whose subcontractors fail, to comply with Arizona Revised Statutes § 23-214(A). Therefore, Licensee shall ensure that:

- a. Each subcontractor Licensee uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with Arizona Revised Statutes § 23-214,
- b. A breach of warranty will be deemed a material breach of the Agreement and is subject to termination of the Agreement by the City.
- c. The City will have the legal right to inspect the papers of Licensee and any Licensee contractor or subcontractor who work(s) on this Agreement to ensure that the Licensee or Licensee contractor or subcontractor is complying with this Section.

32. **Indemnification and Release.**

- a. **CLAIMS RELEASE:** LICENSEE DESIRES TO DELIVER THE LICENSED ACTIVITY AT CITY LOCATION AND IN CONSIDERATION THEREOF, LICENSEE HEREBY UNCONDITIONALLY RELEASES AND FOREVER DISCHARGES THE CITY OF PHOENIX, THEIR RESPECTIVE ELECTED OFFICIALS, BOARDS, COMMISSIONS, SUBSIDIARY AGENCIES, OFFICERS, EMPLOYEES, MEMBERS, AGENTS, VOLUNTEERS, AND REPRESENTATIVES (HEREINAFTER "RELEASEES") FROM ANY AND ALL MANNER OF CLAIMS, LIABILITIES, AND CAUSES OF ACTION WHICH IT MIGHT HAVE AGAINST SAID RELEASEES AS A RESULT OF ANY INJURY OR DAMAGES SUSTAINED BY THE LICENSEE, ITS EMPLOYEES, OR PARTICIPANTS WHILE PARTICIPATING IN THE PROGRAM, IN TRAVELING TO OR FROM CITY AND CITY PREMISES, OR IN ANY WAY RESULTING FROM THE PARTICIPATION IN THIS AGREEMENT AND LICENSED ACTIVITY EITHER DURING OR AFTER ANY OF LICENSEE EMPLOYEES PARTICIPATION IN IT, EXCEPT FOR INJURIES AND DAMAGES RESULTING FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF RELEASEES.
- b. **Hold Harmless and Indemnification.** Licensee, for itself and its members, and on behalf of its affiliates, and assigns, fully and forever releases, discharges, and covenants not to sue the City and its officers, officials, directors, agents and employees (collectively, the "Indemnitees") for any claim, liability, demand, cause of action, obligation of whatever kind or nature, whether known or unknown, foreseen or unforeseen, whether at law or in equity, which Licensee has or may have against the Indemnitees related to loss of life, personal injury, damage to or loss of property, and/or any other damage arising from or out of any occurrence related to Licensed Activity or on Premises. If Locations or any of the Indemnitees are made a party to any litigation, arbitration or other proceeding commenced by Licensee or a third party, or against Licensee arising from or out of any

occurrence related to the Licensed Activity or on Premises, Licensee shall indemnify, defend, protect, and hold the Indemnitees harmless from any judgment, award, or settlement, and shall pay all costs, expenses, and attorney's fees incurred or paid by any of the Indemnitees in connection with such litigation. Further, Licensee shall notify the City within one (1) business day if Licensee receives a claim arising from or out of any occurrence related to the Licensed Activity or on Premises. City shall not be liable to Licensee for any injury, damage, or loss arising out of or in any way related to any act, omission, or negligence of other licensees of Locations or invitees of Locations. Licensee's obligation to indemnify the Indemnitees as herein provided shall survive the expiration or earlier termination of this Agreement for acts or omissions occurring prior to such expiration or termination.

33. **Liability.** If any action of Licensee's employees, affiliates, agents, contractors, or subcontractors in the exercise of this Agreement results in damage to the real property, Licensee will either repair such damage or make an appropriate settlement with the City. In no event shall such repair or settlement exceed the fair market value of the fee title to the real property at the time immediately preceding such damage. Licensee's liability under this clause is subject to the availability of appropriations for such payment, and nothing contained in this agreement may be considered as implying that Licensee's funding sources will appropriate funds at a later date sufficient to meet any deficiencies.

The provisions of this clause are without prejudice to any rights the City may have to make a claim under Arizona Revised Statutes §12-820 through §12-826, as appropriate, for any damages other than those provided for herein.

The City shall not be responsible or liable for injuries to persons or damage to persons or property when such injuries or damages are caused by or result from Goodyear's use of the premises under the terms of this Agreement and are not due to the negligence of the City.

34. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties, there being no other terms, oral or written, except as herein expressed. This Agreement supersedes all other right of entry and license agreements between the Parties, either oral or in writing.
35. **Counterparts.** This Agreement may be executed in counterparts and each counterpart constitutes an original document.
36. **Amendments.** This Agreement may be amended, changed, or modified only by written amendment executed by the Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the Effective Date.

CITY OF PHOENIX

By: _____

Michael G. Sullivan, Interim Police Chief

CITY OF GOODYEAR

By: _____

Art Miller, Interim Police Chief

APPROVED AS TO FORM:

By: _____

Julie Kriegh, City Attorney

By: _____

Anthony Polse, City Attorney