

LEASE
SAHUARITA ADVANCED MANUFACTURING & TECHNOLOGY CENTER

Town of Sahuarita Arizona,
an Arizona municipal corporation

and

Advanced Technologies Applications Group Inc,
a Delaware Corporation



TOWN COUNCIL MEMBERS

Mayor Tom Murphy
Vice Mayor Kara Egbert
Bill Bracco
Simon Davis
Deborah Morales
Steven Gillespie
Diane Priolo

TOWN MANAGEMENT

Shane Dille, Town Manager
Victor Gonzalez, Economic Development Director

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warehouses, and ancillary uses (collectively the "Permitted Use"), and for no other use or purpose and under the Trade Name set forth above and under no other trade name, without Landlord's prior written consent.

Item 12. **TENANT'S SHARE.** Subject to Section [12.1](#) of this Lease, Landlord's Share of the Operating Expenses shall be 15.62%.

Item 13. **TENANT IMPROVEMENTS.**

A. **DESIGN AND CONSTRUCTION.** Tenant will be responsible for the design and construction of all tenant improvements to the Premises pursuant to plans and cost estimates mutually approved by Landlord and Tenant (the "Tenant Improvements"). Landlord shall not unreasonably withhold, condition, or delay approval of plans and specifications for Tenant Improvements. Landlord will reimburse Tenant upon submission of invoices for construction of two (2) restrooms and one (1) demising wall pursuant to plans and costs estimates approved by Landlord. Tenant will be responsible for all permitting fees, but any additional cost for expedited permitting shall be paid by Landlord.

B. **TENANT IMPROVEMENT ALLOWANCE.** On a regular basis, but no more often than monthly, and upon Tenant's submission of mechanic's lien releases and Landlord's approval of invoices, Landlord shall remit to Tenant reimbursement of invoices for the cost of the Tenant Improvements up to the maximum amount of \$125,000 (the "Tenant Improvement Allowance"). Reimbursement will occur within 30 days following Tenant's submission of invoices and mechanic's lien release documentation.

C. **SIGNAGE.** Subject to Section 9.2 of this Lease, Tenant, at its sole cost, may install building signage, subject to prior approval of Landlord

Item 14. **PARKING.** Tenant shall be entitled to the use of 14 unreserved, uncovered parking spaces without additional cost.

Item 15. **COMMON AREAS.** Except for maintenance purposes (with such maintenance work not exceeding seven (7) consecutive business days), Landlord shall not establish or permit any limitation in use nor shall any alteration or change be made or permitted to the Common Areas, or any portion thereof which materially interferes with or disrupts (i) Tenant Improvements; (ii) Tenant's Permitted Use or business operations therein; (iii) Tenant's means of ingress to the Premises or egress therefrom; (iv) any of the loading docks which serve the Premises or the use of any of the loading docks for the Tenant's Permitted Use; or (v) the parking spaces available to Tenant.

Item 16. **ADDRESSES OF PARTIES.** Subject to Section 25 of this Lease, the addresses for notices are as follows:

To Landlord: Town of Sahuarita
Attention: Town Manager
375 W. Sahuarita Center Way
Sahuarita, AZ 85629

With a Copy to: Town of Sahuarita
Attention: Town Attorney
375 W. Sahuarita Center Way
Sahuarita, AZ 85629

To Tenant: Advanced Technologies Applications Group Inc.
162 Westgate St. Suite B
Las Cruces, NM 88005

With a Copy to: Reese Gateley
4316 Carlisle NE Suite B
Albuquerque, NM 87107-4829

Item 17: **BROKERS.** Landlord represent itself, and the Tenant represents itself.

LEASE AGREEMENT

THIS LEASE is entered into on the Effective Date set forth on Item 1 of the Cover Page, by and between the Landlord set forth on Item 2 of the Cover Page and Tenant set forth on Item 3 of the Cover Page. Landlord and Tenant are sometimes referred to herein collectively as the "Parties" or individually as a "Party."

RECITALS

- A. Landlord previously received a grant from the United States Department of Commerce, Economic Development Administration ("EDA") for Project Number 07-01-07395 ("Grant"). Pursuant to the Grant, the EDA issued special award conditions, attached as Exhibit B ("Special Award Conditions"). The Special Award Conditions include an "Authorized Scope of Work" for the project as follows:

Development of a 4.5-acre site located on La Canada Road S., of Sahuarita Road in the Town of Sahuarita, AZ. Components include: 1) Construction of an approximately 32,000 SF (total) multitenant "shell" building(s), with office, meeting, laboratory, manufacturing and warehouse space; 2) Shell building will include foundation, doors/windows, docks, exterior walls/finishes, roofing, mechanical, electrical and plumbing; 3) Site improvements including curb, gutter, sidewalks, driveway, landscaping/irrigation, parking and driveway areas; 4) Installation of utility connections such as electric, gas, telecommunications, water, sewer, onsite and off-site storm drainage.

- B. Pursuant to the Grant and the Special Award Conditions, Landlord purchased a 3.76-acre site and has designed, and will construct, SAMTEC (as hereinafter defined in Section 1.11). Landlord is the fee simple owner of SAMTEC and the real property having a street address of 16220 South La Cañada Drive, Sahuarita, Arizona.
- C. Landlord is desirous of leasing a portion of the Shell Building (as hereinafter defined in Section 1.12) to Tenant, and Tenant is desirous of leasing a portion of the Shell Building from Landlord, on the terms and conditions stated in the Cover Sheet and this Lease.
- D. Landlord is authorized to enter into this Lease pursuant to Arizona Revised Statutes, Title 9, Chapter 2, Article 3.

AGREEMENT

NOW, THEREFORE, for and in consideration of the rents, foregoing recitals, the mutual covenants and agreements hereinafter provided, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed between Landlord and Tenant as follows:

1. DEFINITIONS.

- 1.1. Additional Rent. "Additional Rent" shall mean all sums payable by Tenant under this Lease other than Base Rent. Additional Rent will include all payments due pursuant to this Lease, including but not limited to all Operating Expenses (as defined in Section 11) for which Tenant is liable hereunder as provided in Section 12.

- 1.2. **Applicable Laws.** "Applicable Laws" means the United States Constitution, the Arizona Constitution, court decrees, federal, state, county and local laws (statutory and common law), codes, ordinances, rules, regulations, permit requirements, fee schedules and assessments and other requirements and official policies of the Town of Sahuarita, in existence now or as hereinafter enacted or amended, which apply to this Lease and the Premises.
- 1.3. **Base Rent.** "Base Rent" means the annual Base Rent set forth in Item 8 of the Cover Sheet, paid as provided in Section 5 below. Landlord acknowledges that the Base Rent is the reasonable fair commercial rental value in the community, as required by the Special Award Conditions, and is adequate consideration as required by EDA.
- 1.4. **Commencement Date.** "Commencement Date" means the date that the following have occurred: (i) completion of the Landlord Improvements to SAMTEC (as described on Exhibit C), (ii) substantial completion of the Tenant Improvements to Premises (as described on Exhibit D), and (iii) issuance of a Certificate of Occupancy for the Premises.
- 1.5. **Common Area.** "Common Area" means all areas and facilities outside the Premises and within the exterior boundaries of SAMTEC that are not leased to other tenants and that are provided and designated by Landlord, in its sole discretion from time to time, for the general use and convenience of Tenant and other tenants of SAMTEC and their authorized representatives, employees, invitees and the general public (such as parking areas serving SAMTEC, retaining walls, exterior boundary walls, sanitary and storm sewers, water retention basins, common entrances, and walkways).
- 1.6. **Compulsory Commencement Date.** "Compulsory Commencement Date" means that certain date set forth on Item 6 of the Cover Page. If the Landlord's Improvements are not completed by the Compulsory Commencement Date and the Parties have not executed the Commencement Date Memorandum, then the Compulsory Commencement Date becomes the Commencement Date for all purposes provided in this Lease
- 1.7. **GPLET.** "GPLET" means the Government Property Lease Excise Tax set forth in A.R.S. Title 42, Chapter 6, Article 5.
- 1.8. **Hazardous Material.** "Hazardous Material" means any flammable items, explosives, radioactive materials, oil, hazardous or toxic substances, material or waste or related materials, including any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," or "toxic substances" now or hereafter regulated under any Applicable Laws, including without limitation petroleum-based products, paints, solvents, lead, cyanide, DDT, printing inks, acids, pesticides, ammonia compounds and other chemical products, asbestos, PCBs and similar compounds, and including any different products and materials which are found to have adverse effects on the environment or the health and safety of persons; provided, however, "Hazardous Material" does not include any de minimis quantities of office or other cleaning supplies commonly used in accordance with Applicable Laws.

- 1.9. Premises. "Premises" means that portion of the Shell Building set forth in Item 1 of the Cover Sheet, which is the area Tenant is leasing from Landlord pursuant to the provisions of this Lease.
- 1.10. Rent. "Rent" means all Base Rent and Additional Rent.
- 1.11. SAMTEC. "SAMTEC" means the Sahuarita Advanced Manufacturing and Technology Center. SAMTEC consists of the Shell Building and related parking, landscaping, driveways, and other improvements on Pima County Parcel Number 303-81-006A as described on Exhibit E.
- 1.12. Shell Building. "Shell Building" means that certain base building described on Exhibit F. The Shell Building shall be an approximately 32,000 square feet (total) multitenant "shell" building, with office, meeting, laboratory, manufacturing and warehouse space, including foundation, doors/windows, docks, exterior walls/finishes, roofing, mechanical, electrical and plumbing.

2. LEASE OF PREMISES.

- 2.1. Lease. In consideration of the obligation of Tenant to pay Rent and other charges as herein provided, and in consideration of the other terms, provisions, and covenants set forth herein, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises set forth in Item 1 of the Cover Sheet. Unless otherwise provided herein, any Year End Statement of size set forth in this Lease, or that may have been used in calculating Rent, is an approximation which the Parties agree is reasonable, and any payments based thereon are not subject to revision whether or not the actual size is more or less.
- 2.2. Landlord's Reservation of Rights. Landlord reserves "as-is": (i) the exclusive use of the exterior walls (other than the storefront), the roof, the airspace above the roof and the space below the floor slab, and (ii) the right to install, maintain, use, repair and/or replace pipes, ducts, conduits, utility lines and wires in the space above the interior surfaces of the ceilings, below the finished floor, within the demising walls of the building containing the Premises and in all of the Common Areas.
- 2.3 "Intentionally left blank"

3. TERM AND TERMINATION.

- 3.1. Lease Term. The term of this Lease shall begin at 12:01 AM on the Commencement Date, which shall be determined subsequent to the execution of this Lease and documented by completion and execution of the Commencement Date Memorandum, which shall also document the Termination Date.
 - 3.1.1. Commencement Date. Subject to the provisions of this Lease, the Term of this Lease and Tenant's obligation to pay Rent shall begin upon the Compulsory Commencement Date. Within 30 days after the Commencement Date has been determined, (if applicable), Landlord and Tenant shall

execute and deliver to each other a commencement date memorandum in the form attached hereto as Exhibit G ("Form of Commencement Date Memorandum").

- 3.2. Tenant's Rights to Renew and Expand. Tenant's right(s) to renew, right of first offer to expand into adjacent space, and other rights (if any), are set forth on Exhibit H of this Lease.
- 3.3. Holding Over. If Tenant remains in possession of the Premises after the expiration of the Term or earlier termination of this Lease, without the execution of a new Lease, then, at Landlord's option, Tenant shall be deemed to be occupying the Premises as a month-to-month holdover Tenant, subject to all the provisions of this Lease insofar as they are applicable to a month-to-month tenancy, but at a daily rental of 150% of the per day Rent and Additional Rent provided under this Lease, computed on the basis of a 30 day month.
4. SECURITY DEPOSIT & FIRST MONTH'S RENT. Upon the Effective Date, Tenant will deposit with Landlord (i) the Security Deposit in the amount set forth in Item 7 of the Cover Sheet, and (ii) the first month's Rent as defined in Section 5 of this Lease. Landlord may, at its option, apply all or part of the Security Deposit to any unpaid Rent or other charges due from Tenant, cure any other defaults of Tenant, or compensate Landlord for any loss or damage which Landlord may suffer due to Tenant's default. If Landlord uses any part of the Security Deposit, Tenant will restore the Security Deposit to its full amount within ten days after Landlord's request. No interest will be paid on the Security Deposit, no trust relationship is created herein between Landlord and Tenant with respect to the Security Deposit, and the Security Deposit may be commingled with other funds of Landlord. Upon expiration or termination of this Lease not resulting from Tenant's default and after Tenant has vacated the Premises in the manner required by this Lease, Landlord will pay to Tenant any balance of the Security Deposit not applied pursuant to this Section.
5. RENT.
 - 5.1. Payment of Rent. Beginning on the Commencement Date and continuing throughout the Term, Tenant shall pay to Landlord the Rent for the Premises. The Rent shall be payable in equal monthly installments, on or before the first day of each calendar month. All sums payable pursuant to this Lease shall be paid when due, in lawful money of the United States of America, without deduction or offset, and without any prior invoice, notice, or demand, to Landlord, by automatic bank transfer from Tenant's bank to Landlord's bank, or by some other method as Landlord may from time to time designate by notice hereunder. Payments of Rent for any partial calendar month will be prorated.
 - 5.2. Annual Rent Escalation. The Base Rent set forth in Item 8 of the Cover Sheet shall be upwardly adjusted each anniversary of the Commencement Date during the term of this Lease. Each year, upon the annual anniversary of the Commencement Date, the Base Rent shall increase by the amount reflected on Item 9 of the Cover Sheet, from the Base Rent payable for the immediately preceding year.
 - 5.3. Interest. If not paid when due, any Rent or other amount due to Landlord will bear interest from the date due until the date paid at the rate of 15 percent per year, but not to exceed the highest rate permitted by the Applicable Laws.
 - 5.4. Late Charges. If any installment of Rent or any other sums due from Tenant is not received by Landlord within five days following the due date, Tenant will pay to

Landlord a late charge equal to five percent of such overdue amount; provided, however, Landlord will not charge any late charge for the first time in each calendar year that such payment is not made within five days of the due date if payment is received within five days of receipt of notice. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant.

6. GUARANTY. This Lease is guaranteed by the parties set forth in Item 10 of the Cover Sheet, and such Guarantor(s) shall execute a Guaranty in the form attached hereto as Exhibit I.
7. USE OF PREMISES.
 - 7.1. Purpose and Non-Discrimination. The Premises must be used in a manner consistent with the authorized general and special purpose of the Grant, the EDA "Agreement and Mortgage" recorded in the office of the Pima County Recorder at Sequence No. 20183450103, the Special Award Conditions, and the Grant terms and conditions. This includes but is not limited to Tenant not discriminating against any qualified employee or applicant for employment because of race, color, national origin, religion, sex, age or physical or mental disability.
 - 7.2. Manner of Use. Tenant shall operate, manage, occupy and use the Premises only for the purposes of offices, meeting spaces, laboratory uses, or manufacturing and warehouses, or similar uses consistent and strictly in accordance with the Grant, as specifically set forth on the Cover Sheet. In no event shall Tenant utilize the Premises for any other purpose without the prior written approval of Landlord and EDA, which approval may be given or withheld in the sole and absolute discretion of Landlord and EDA. In connection with the foregoing, Tenant hereby acknowledges, covenants and agrees that it shall not use or permit the use of the Premises for any purpose that is not consistent with the general and special purpose of the Grant. In addition, Tenant hereby acknowledges, covenants and agrees that, in its use of the Premises, it shall observe and comply with all requirements of EDA as described in the Grant, including, without limitation, prohibitions against discrimination on the basis of race, color, national original, handicap, age, religion or sex, and all requirements regarding environmental impacts which any uses within the Premises may have on the environment. Landlord will obtain and pay for all necessary permits, including a certificate of occupancy, and will promptly take all actions necessary to comply with all Applicable Laws.
 - 7.3. Landlord's Access. Landlord or its agents may enter the Premises, upon 24 hour notice to Tenant (except in the case of an emergency, in which event Landlord may enter without notice), to show the Premises to potential tenants, for routine property inspections and maintenance, or for any other purpose Landlord deems reasonably necessary. During the last six months of the Term, Landlord may place customary "For Lease" signs on the Premises.
 - 7.4. Rules and Regulations. Tenant's use of the Premises and Common Areas shall be subject to the Landlord's Rules and Regulations, which may be amended from time to time. The initial Rules and Regulations are set forth on Exhibit J of this Lease.
8. CONDITION AND MAINTENANCE OF PREMISES.
 - 8.1. Condition upon Delivery. Upon completion of Landlord Improvements to SAMTEC, Landlord shall deliver the Premises to Tenant in the general condition described on

Exhibit F. Tenant's acceptance of the Premises shall certify Tenant's acceptance of the condition of the Premises. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation as to the condition of the Premises or the suitability of the Premises for Tenant's intended use. Tenant represents and warrants that Tenant has made its own inspection of and inquiry regarding the condition of the Premises and is not relying on any representations of Landlord or any broker with respect thereto.

- 8.2. Landlord's Obligations. Landlord shall be obligated to maintain and repair the Shell Building at its expense. Landlord shall also maintain the Common Areas and the HVAC system serving the Premises, and the cost of such maintenance shall be an Operating Expense as provided in Section 11. Tenant will promptly report in writing to Landlord any defective condition known to it which either Landlord or Tenant is required to repair.
- 8.3. Tenant's Obligations. Landlord and Tenant acknowledge and agree that this is a Triple-Net (NNN) lease, that Landlord shall have NO obligations relating to the repair or maintenance of the Premises, and Tenant shall be solely responsible for the same, except as otherwise provided in this Lease. Tenant will keep all portions of the Premises (including without limitation, all systems, equipment, doors, windows, and floors) in good order, condition and repair (including repainting and refinishing, as needed). If any portion of the Premises or any system or equipment in the Premises which Tenant is obligated to repair cannot be fully repaired or restored, Tenant will promptly replace such portion of the Premises or system or equipment. If the benefit or useful life of such replacement extends beyond the Term, Tenant will only be required to pay for a prorated portion of the useful life of such replacement, and Landlord shall pay the balance. At Tenant's request, Landlord may elect to perform Tenant's maintenance and repair obligations hereunder and Tenant will reimburse Landlord for all costs incurred in doing so promptly upon receipt of an invoice from Landlord. The Premises shall be maintained in at least the condition which exists upon the Effective Date.
- 8.4. Condition upon Termination. Upon the expiration or termination of the Lease Term, Tenant will surrender the Premises to Landlord broom clean and in the condition which Tenant is required to maintain the Premises under this Lease, fair wear and tear excepted. Tenant will not be obligated to repair any damage which Landlord is required to repair hereunder.
- 8.5. Exemption of Landlord from Liability. Landlord will not be liable for any damage or injury to the person, business (or any loss of income therefrom), goods, wares, merchandise or other property of Tenant, Tenant's employees, invitees, customers or any other person on or about the Premises, whether such damage or injury is caused by or results from: (i) fire, steam, electricity, water, gas or rain, (ii) the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures or any other cause, (iii) conditions arising in or about the Premises, or from other sources or places, or (iv) any curtailment or interruption in utility services. Tenant will give Landlord prompt notice upon the occurrence of any accident or casualty at the Premises. The provisions of this Section will not exempt Landlord from liability for its gross negligence or willful misconduct; provided, however, Landlord will not be liable for any consequential damages.

9. ALTERATIONS, ADDITIONS, AND IMPROVEMENTS.

- 9.1. **Tenant's Work.** Tenant may not make any installations, alterations, additions, or improvements or major repairs in or to the Premises without obtaining Landlord's prior written consent. All work will be performed in accordance with plans and specifications approved in advance by Landlord. Tenant will procure all necessary permits and licenses before undertaking any work on the Premises and will perform all work in a good and workmanlike manner employing materials of good quality and in conformity with all Applicable Laws and insurance requirements. Tenant will (i) employ only contractors which are approved by Landlord, such approval not to be reasonably withheld (ii) require all contractors employed by Tenant to carry workers' compensation insurance in accordance with statutory requirements, and commercial general liability insurance covering such contractors on or about the Premises with a combined single limit not less than \$1,000,000 and (iii) submit certificates evidencing such coverage to Landlord prior to the commencement of any work. Landlord may inspect Tenant's work at reasonable times. Tenant will prosecute and complete such work with reasonable diligence and will provide Landlord with "as built" plans, copies of all construction contracts and proof of payment for all labor and materials.
- 9.2. **Tenant's Signs.** All of Tenant's signs shall comply with all Applicable Laws, and shall be subject to approval by Landlord prior to installation. Tenant shall be responsible for the costs of designing, manufacturing, installing, illuminating, operating and maintaining its signs. Upon the termination of this Lease, Tenant shall remove its signs and restore and repair all parts of the Premises and SAMTEC affected by the installation or removal of its signs, to the condition existing prior to installation or to a condition reasonably acceptable to Landlord. If Tenant fails or refuses to remove its signs as herein required, Landlord may, but shall not be obligated to, remove such signs and repair and restore all damage caused by their removal, and Tenant shall pay to Landlord the costs of all such removal, repair and restoration within ten days after receipt of an invoice therefor. Landlord reserves the right to place signage on the exterior of the Premises, including, without limitation, building identification signage, directional signage and signage for other tenants and occupants of the Center.
- 9.3. **Removal by Tenant.** All repairs, alterations, decorations, additions and improvements made by Tenant shall at once when made become part of the leasehold and become property of Landlord. Upon the expiration or sooner termination of this Lease, Tenant shall not remove any of such alterations, decorations, additions and improvements, except that trade fixtures, furniture and equipment installed by Tenant may be removed if: (i) such trade fixtures, furniture and equipment are not integral to the Premises (by way of example only and not a limitation, HVAC and plumbing systems may not be removed), (ii) all Rents hereunder are paid in full, and (iii) Tenant has performed all of its other obligations hereunder. Notwithstanding the foregoing, prior to the expiration of the Term, Landlord may designate by written notice to Tenant those alterations, decorations, additions and improvements which shall be removed by Tenant at the expiration or termination of this Lease and Tenant shall promptly remove same and repair any damage to the Premises caused by such removal. Tenant hereby acknowledges and agrees that any property remaining in the Premises after the expiration or earlier termination of this Lease, shall be deemed abandoned by Tenant and Landlord may dispose of such personal property as it deems appropriate, at

Tenant's cost, and Tenant shall reimburse Landlord for such costs within 15 days after being billed for the same.

- 9.4. No Liens. Tenant will pay when due all claims for labor and material furnished to the Premises and keep the Premises at all times free from liens for labor and materials. Tenant will give Landlord at least 20 days' prior written notice of the commencement of any work on the Premises. Landlord may record and post notices of non-responsibility on the Premises. Prior to commencement by Tenant of any work on the Premises, Tenant will record a notice of commencement ("Notice of Commencement") in the public records of the county in which the Premises is located identifying Tenant as the party for whom such work is being performed, stating such other matters as may be required by law and requiring the service of copies of all notices, liens or claims of lien upon Landlord. The Notice of Commencement shall clearly reflect that the interest of Tenant in the Premises is that of a leasehold estate. A copy of the Notice of Commencement will be furnished to and approved by Landlord and its attorneys prior to the recording or filing.
- 9.5. No Authority. Nothing contained in this Lease shall authorize Tenant to do any act which may create or be the foundation for any lien, mortgage or other encumbrance upon the reservation or other estate of Landlord, or of any interest of Landlord in the Premises or in SAMTEC, or any improvements thereof. It is agreed that should Tenant cause any alterations, changes, additions, improvements or repairs to be made in the Premises, or cause materials to be furnished or labor to be performed therein, neither Landlord nor the Premises shall, under any circumstances, be liable for the payment of any expenses incurred or for the value of any work done or material furnished to the Premises or any part thereof. Tenant shall, upon request of Landlord, deliver such documents as may be required by Landlord in order to effectuate the lien protection required by this Section 9, all such alterations, changes, additions, improvements and repairs and materials and labor shall be at Tenant's expense and Tenant shall be solely and wholly responsible to contractors, laborers and materialmen furnishing labor and materials to the Premises, or any part thereof. Tenant shall inform every service or material provider of the foregoing provisions prior to contracting with any of them for goods or services.
- 9.6. Discharge. Tenant shall discharge any lien filed against the Premises or SAMTEC, or any part thereof, for work done or materials furnished at Tenant's request with respect to the Premises within ten calendar days after such lien is filed. The failure of Tenant to do so shall be a material default hereunder. If Tenant fails to keep this covenant, in addition to any other remedies available to Landlord under this Lease, Tenant agrees to pay Landlord, as Additional Rent, the sum equal to the amount of the lien thus discharged by Landlord, plus all costs and expenses, including without limitation attorneys' fees and court costs, incurred by Landlord in discharging such lien.
10. COMMON AREAS.
- 10.1. Common Areas. The Common Areas shall be operated and maintained by Landlord. Except as otherwise specifically set forth by Landlord in subsequent documents governing the use of SAMTEC Common Areas, Landlord grants to Tenants and its agents, employees and invitees, the non-exclusive right, together with all of the occupants of SAMTEC and their agents, employees and invitees, to use the Common Areas.

- 10.2. **Parking.** Although this Lease permits Tenant to use parking at SAMTEC, Tenant acknowledges that (i) the right to use parking is non-exclusive, (ii) other tenants of SAMTEC shall also be entitled to use parking spaces, (iii) Landlord does not guarantee there will be sufficient parking spaces for Tenant and other tenants of SAMTEC, and (iv) all spaces are available to Tenant, other tenants, and guests, and no parking spaces shall be designated for any particular tenant or use (other than handicapped spaces). Landlord shall have the right, but not the obligation, to assign reserved parking spaces to one or more tenant, based upon need and Tenant's Share (as defined in Section 12.1). Parking is provided for passenger vehicles only, and parking of other vehicles (i.e. recreational vehicle, bus, semi-truck, etc.) shall not be permitted. Overnight parking is prohibited unless Tenant's business operates overnight.
- 10.3. **Control of Common Areas.** Subject to Landlord's subsequent documents relating to use of the Common Areas, it is agreed that: (i) all Common Areas shall be subject to the exclusive control and management by Landlord, (ii) Landlord shall have the right at any time (either before, during or after the initial arrangement of the entrances, access roads, parking areas and other Common Areas), to construct buildings and other improvements thereon and therein, (iii) Landlord shall have the right to demolish and make alterations and additions to the building(s) in SAMTEC (including the construction of additional buildings therein), and to add and exclude areas from SAMTEC, and to relocate improvements, and (iv) Landlord shall have the right to do and perform such other acts in and to the Common Areas as Landlord shall determine to be advisable, in its sole and absolute discretion. The rights of Landlord as reserved in this Lease shall be subject to the condition that no exercise of such rights by Landlord shall alter the physical dimensions of the Premises, or change their location or relative proximity to other premises, or otherwise materially or unreasonably interfere with the conduct of Tenant's business in the Premises.
11. **DEFINITION OF OPERATING EXPENSES.** Operating Expenses is intended to be inclusive of all costs of operating and maintaining SAMTEC. Landlord agrees to make reasonable efforts to minimize operating costs insofar as such efforts are not inconsistent with Landlord's intent to operate and maintain SAMTEC in a professional manner. Landlord shall not be liable in any manner whatsoever to Tenant or any third party by reason of any act or omission of Landlord in providing or maintaining security services (or electing not to provide or maintain Security Services) in the Common Areas. Operating Expenses may include, but shall not be limited to, the costs listed in this Section 11.
- 11.1. **Tax Expenses.** Operating Expenses shall include any and all real property taxes (if any), general and special taxes and impositions of every kind and nature whatsoever levied, assessed, or imposed upon, or with respect to SAMTEC.
- 11.2. **Utility Costs.** Operating Expenses shall include Tenant's Share (as defined in Section 12.1 of this Lease) of all utility costs, to the extent such utility costs are not separately metered.
- 11.3. **Insurance.** Operating Expenses shall include Tenant's Share (as defined in Section 12.1 of this Lease) of all Insurance, which shall mean all costs and expenses to Landlord in maintaining fire and extended coverage insurance, property damage, liability and rent loss insurance and any other insurance maintained by Landlord covering the use and operation of SAMTEC which is customary in comparable projects in the area or which is reasonably deemed prudent by Landlord, including but not limited to the insurance provided in Section 16.

- 11.4. HVAC. Operating Expenses shall include all costs and expenses to Landlord in repairing, operating and maintaining the heating, ventilating and air conditioning system for SAMTEC, including the cost of all utilities required in the operation thereof, except those paid directly by tenants of SAMTEC and including the cost of replacements of equipment used in connection with such repair and maintenance work and all costs and expenses incurred in making alterations or additions to the heating, ventilating and air conditioning system in order to comply with governmental rules, regulations and statutes.
- 11.5. Operation and Maintenance Costs. Operating Expenses shall include all costs and expenses to Landlord (except those relating to the foundation and structure) in operating, managing, repairing, replacing and maintaining SAMTEC, including (i) all sums expended in connection with the Common Areas for general maintenance and repairs, resurfacing, painting, restriping, cleaning, sweeping and maintenance and repair of sidewalks, curbs and SAMTEC signs, planting, landscaping and irrigation, lighting and other utilities, (ii) maintenance and repair of the roof and periodic replacement, (iii) maintenance and repair of any fire protection systems, automatic sprinkler systems, lighting systems, emergency back-up utility systems, storm drainage systems and any other utility systems, (iv) personnel to implement such services and to maintain the Common Areas, rental of machinery and equipment used in such maintenance and services, police and fire protection services, (v) trash removal services, (vi) all costs and expenses pertaining to security systems and utilities in the Common Areas. Landlord may establish a reserve for the replacement of major items such as re-roofing or re-surfacing the parking lots and annual payments by Tenants into this reserve shall be an Operating Expense. Costs and expenses incurred by Landlord in operating, managing, repairing and maintaining SAMTEC which are incurred exclusively for the benefit of specific tenants of SAMTEC will be billed to the specific tenant accordingly and will not be included within the general Operating Expenses.

12. CALCULATION AND PAYMENT OF OPERATING EXPENSES.

- 12.1. Tenant's Obligations. As Additional Rent, as provided in Section 1.1, beginning on the Commencement Date, Tenant shall pay to Landlord Tenant's Share of the Operating Expenses for each Expense Year. "Tenant's Share" shall mean the percentage determined by dividing the Floor Area of the Premises set forth in Item 1 of the Cover Sheet, by 32,000 square feet, which the parties agree is the total Floor Area of the Shell Building, as provided in Item 12 of the Cover Sheet. Landlord reserves the right, in its sole discretion, to increase or decrease from time to time the total Floor Area of SAMTEC, if permitted by the EDA and the terms of the Grant. In the event either the Floor Area of the Premises and/or the total Floor Area of SAMTEC is changed, Tenant's Share shall be appropriately adjusted in future leases. "Expense Year" shall mean each calendar year during the Term (or partial calendar year if the Term commences or ends on a date other than the provided first or last day of a calendar year). For any partial Expense Year, Tenant's Share shall be prorated.
- 12.2. Statement of Estimated Operating Expenses. Prior to December 31 of each year during the Term, Landlord shall endeavor to give Tenant a yearly expense estimate statement (the "Estimate Statement") which shall set forth Landlord's reasonable estimate (the "Estimate") of what the total amount of Operating Expenses for the new Expense Year shall be. The failure of Landlord to timely furnish the Estimate

Statement for any Expense Year shall not preclude Landlord from enforcing its rights under this Section 12. Tenant shall pay Tenant's Share of the Estimated Expenses (defined below) with installments of Rent in monthly installments of one-twelfth thereof on the first day of each calendar month during such year, except that the monthly installment of Tenant's Share of the Estimated Expenses for the first full calendar month of the initial Term shall be paid at the time of Tenant's first payment of Rent. "Estimated Expenses" for any particular year shall mean Landlord's estimate of Operating Expenses for a calendar year. If at any time Landlord determines that Operating Expenses are projected to vary from the then Estimated Expenses, Landlord may, by notice to Tenant, revise such Estimated Expenses, and Tenant's monthly installments for the remainder of such year shall be adjusted so that by the end of such calendar year, Tenant has paid to Landlord Tenant's Share of the revised Estimated Expenses for such year. Until a new Estimate Statement is furnished, Tenant shall pay monthly, with the monthly Rent installments, an amount equal to one-twelfth of Tenant's Share of the Estimated Expenses set forth in the previous Estimate Statement delivered by Landlord to Tenant. The Estimate for the first year following the Commencement Date shall be set forth on the Commencement Date Memorandum.

- 12.3. Reconciliation of Estimated Expenses; Overpayment; Underpayment. On or before the first day of April following the end of each Expense Year, Landlord shall endeavor to give Tenant a statement (the "Reconciliation Statement") which will state (i) the Operating Expenses actually incurred or accrued for such preceding Expense Year ("Actual Expenses"), (ii) the amount of the Estimated Expenses actually paid by Tenant for such preceding Expense Year ("Tenant Expense Payments"), and (iii) the difference between the Actual Expenses and the Tenant's Expense Payments for such Expense Year (the "Difference"). If the Difference reflects that the Actual Expenses exceeded the Tenant Expense Payments, Tenant shall pay the full amount of the Difference within 30 days after receipt of said Reconciliation Statement. If the Difference reflects that the Tenant Expense Payments exceeded the Actual Expenses, Landlord shall pay the full amount of the Difference within 30 days after delivery of said Reconciliation Statement. The failure of Landlord to timely furnish the Reconciliation Statement for any Expense Year shall not prejudice Landlord from enforcing its rights under this Section 12. Even if the Term has expired and Tenant has vacated the Premises, when the final determination is made of Tenant's Share of the Operating Expenses for the Expense Year in which this Lease terminates, any Difference shall be paid as provided in this Section 12.3. The provisions of this Section 12 shall survive the expiration or earlier termination of the Term.
- 12.4. Audit Rights. Within 30 days after receipt of the Reconciliation Statement by Tenant ("Review Period"), if Tenant disputes the amount set forth in such Reconciliation Statement, an independent certified public accountant (which accountant is a member of a nationally or regionally recognized accounting firm), designated by Tenant, may, after reasonable notice to Landlord and at reasonable times, inspect Landlord's records (pertaining to Landlord's calculation of Operating Expenses) at Tenant's offices. Landlord shall cooperate in good faith with Tenant and the accountant to provide Tenant and the accountant with the information upon which the certification is to be based. However, if such certification by the accountant proves that the total amount of Operating Expenses set forth in the Reconciliation Statement were overstated by more than five percent, then the actual, documented and reasonable cost of the accountant and such certification shall be paid for by Landlord. Promptly

following the parties receipt of such certification, the parties shall make such appropriate payments or reimbursements, as the case may be, to each other, as are determined to be owing pursuant to such certification.

13. PAYMENT OF GPLET. Because Landlord (an incorporated municipality) is the fee owner of SAMTEC, neither SAMTEC nor the Premises will be assessed property taxes, but Tenant will be subject to the GPLET. Pursuant to A.R.S. § 42-6206 (A), Landlord hereby notifies Tenant that (i) Tenant is responsible for the tax liability set forth in A.R.S. Title 42, Chapter 6, Article 5, and (ii) failure by Tenant to pay the tax after notice and an opportunity to cure is an event of default that could result in divesting Tenant of any interest in or right of occupancy of the Premises. Tenant acknowledges that it is a Prime Lessee as defined in A.R.S. § 42-6201, and shall be responsible for payment of all GPLET tax set forth in A.R.S. § 42-6204, and as otherwise provided in A.R.S. Title 42, Chapter 6, Article 5.
14. UTILITIES. Tenant will promptly pay, directly to the appropriate supplier, the cost of all natural gas, heating, cooling, energy, light, power, sewer service, telephone, water, refuse disposal and other utilities and services supplied to the Premises, together with any related installation or connection charges or deposits incurred during the Term. This obligation does not include utilities that are not separately metered, which shall be paid as part of the Operating Expenses as provided in Section 11.
15. TENANT'S INSURANCE. Tenant, at its expense, will maintain the following insurance coverages during the Term.
 - 15.1. Liability Insurance. Commercial general liability insurance insuring Tenant against liability for bodily injury, property damage (including loss of use of the Premises) and personal injury at the Premises, including contractual liability. Such insurance will name Landlord, any mortgagee, and such other parties as Landlord may designate, as additional insureds. The initial amount of such insurance will be \$1,000,000 per occurrence and will be subject to periodic increases reasonably specified by Landlord based upon inflation, increased liability awards, recommendations of Landlord's professional insurance advisers, and other relevant factors. The liability insurance obtained by Tenant under this Lease will (i) be primary and (ii) insure Tenant's obligations to Landlord hereunder. The amount and coverage of such insurance will not limit Tenant's liability nor relieve Tenant of any other obligation under this Lease. Tenant shall provide evidence of insurance in the amounts specified herein to the Landlord, at Lease execution and when subsequently requested by Landlord. Such evidence shall show the Landlord as additional insured.
 - 15.2. Workers' Compensation Insurance. Workers' Compensation Insurance in the statutory amount (and Employers' Liability Insurance) covering all employees of Tenant employed or performing services at the Premises, in order to provide the statutory benefits required by the laws of the state in which the Premises are located.
 - 15.3. Personal Property Insurance. Personal Property Insurance covering leasehold improvements paid for by Tenant and Tenant's personal property and fixtures from time to time in, on, or at the Premises, in an amount not less than 100% of the full replacement cost, without deduction for depreciation, providing protection against events protected under "All Risk Coverage," as well as against sprinkler damage, vandalism, and malicious mischief. Any proceeds from the Personal Property Insurance will be used for the repair or replacement of the property damaged or destroyed, unless the Lease Term is terminated under an applicable provision herein.

If the Premises are not repaired or restored in accordance with this Lease, Landlord will receive any proceeds from the Personal Property Insurance allocable to Tenant's leasehold improvements.

16. LANDLORD'S INSURANCE. During the Lease Term, Landlord will maintain in effect all risk insurance covering loss of or damage to SAMTEC in the amount of its replacement value with such endorsements and deductibles as Landlord determines from time to time. Landlord will have the right to obtain flood, earthquake, and such other insurance as Landlord determines from time to time or is required by any mortgagee of SAMTEC. Landlord will not insure Tenant's fixtures or equipment or building improvements installed or paid by Tenant. Landlord may obtain commercial general liability insurance in an amount and with coverage determined by Landlord insuring Landlord against liability with respect to SAMTEC. The policy obtained by Landlord will not provide primary insurance, will not be contributory and will be excess over any liability insurance maintained by Tenant. Landlord may also maintain a rental income insurance policy, with loss payable to Landlord. Any increase in the cost of Landlord's insurance due to Tenant's use or activities at the Premises will be paid by Tenant to Landlord as Additional Rent. Landlord's obligations under this Section 17 may be satisfied through membership with the Arizona Municipal Risk Retention Pool pursuant to A.R.S. § 41-621.01 (B).
17. GENERAL INSURANCE PROVISIONS.
 - 17.1. Notice Upon Entry. Prior to the Commencement Date Tenant will deliver to Landlord an insurance company certificate evidencing that Tenant maintains the insurance required herein, and not less than 30 days prior to the expiration or termination of any such insurance, Tenant will deliver to Landlord renewal certificates therefor. Tenant will provide Landlord with copies of the policies promptly upon request from time to time.
 - 17.2. Notice of Modification. Any insurance which Tenant is required to maintain under this Lease will include a provision which requires the insurance carrier to give Landlord not less than 30 days' written notice prior to any cancellation or modification of such coverage.
 - 17.3. Insurance Company Rating. All insurance policies required under this Lease will be with companies having a "General Policy Rating" of A -/X or better, as set forth in the most current issue of the Best Key Rating Guide.
18. ENVIRONMENTAL REQUIREMENTS.
 - 18.1. Hazardous Material Restrictions. Tenant will not cause or permit any Hazardous Material to be generated, produced, brought upon, used, stored, treated or disposed of in or about the Premises by Tenant, its agents, employees, contractors, sublessees or invitees without (i) the prior written consent of Landlord, and (ii) complying with all Applicable Laws pertaining to the transportation, storage, use or disposal of such Hazardous Material (collectively, "Environmental Laws"), including, but not limited to, obtaining proper permits. Landlord is entitled to take into account such other factors or facts Landlord deems reasonably relevant in granting or withholding consent to Tenant's proposed activity with respect to Hazardous Material. Landlord will not, however, be required to consent to the installation or use of any storage tanks on the Premises.

18.2. Tenant Responsibilities. If Tenant's transportation, storage, use or disposal of Hazardous Materials results in the contamination of the soil or surface or ground water, release of a Hazardous Material or loss or damage to person(s) or property or the violation of any Environmental Laws, then Tenant agrees to: (i) notify Landlord immediately of any contamination, claim of contamination, release, loss or damage, (ii) after consultation with Landlord, clean up the contamination in full compliance with all Environmental Laws and (iii) indemnify, defend and hold Landlord harmless from and against any claims, suits, causes of action, costs and fees, including, without limitation, attorneys' fees and costs, arising from or connected with any such contamination, claim of contamination, release, loss or damage. Tenant will fully cooperate with Landlord and provide such documents, affidavits and information as may be requested by Landlord (A) to comply with any Environmental Laws, (B) to comply with the request of any lender, purchaser or tenant, and/or (C) as otherwise deemed reasonably necessary by Landlord in its discretion. Tenant will notify Landlord promptly in the event of any spill or other release of any Hazardous Material at, in, on, under or about the Premises which is required to be reported to a governmental authority under any Environmental Laws, will promptly forward to Landlord copies of any notices received by Tenant relating to alleged violations of any Environmental Law, will promptly pay when due any fine or assessment against Landlord, Tenant or the Premises and remove or bond any lien filed against the Premises relating to any violation of Tenant's obligations with respect to Hazardous Material.

18.3. Landlord's Rights. Landlord shall have the right, but not the obligation, without in any way limiting Landlord's other rights and remedies under this Lease, to enter upon the Premises, or to take such other actions as it deems necessary or advisable, to investigate, clean up, remove or remediate any Hazardous Material or contamination by Hazardous Material present on, in, at, under or emanating from the Premises in violation of Tenant's obligations under this Lease or under any laws regulating Hazardous Material or that Tenant is liable under this Lease to clean up, remove or remediate. Landlord will have the right, at its election, in its own name or as Tenant's agent, to negotiate, defend, approve and appeal, at Tenant's expense, any action taken or order issued by any governmental agency or authority against Tenant, Landlord or the Premises relating to any Hazardous Material or under any related law or the occurrence of any event or existence of any condition that would cause a breach of any of the covenants set forth in this Section. If Landlord determines in good faith that a release or other environmental condition may have occurred during the Term, at Tenant's cost, Landlord may require an environmental audit of the Premises by a qualified environmental consultant. Tenant will, at its sole cost and expense, take all actions recommended in such audit to remediate any environmental conditions for which it is responsible under this Lease.

18.4. Survival. The provisions of this Section 18 shall extend to and be enforceable by Landlord's liability, health, disability and worker's compensation insurers, and shall survive the expiration or sooner termination of the Term.

19. COMPLIANCE WITH FEDERAL AND STATE LAWS.

19.1. Existing Conditions. Tenant shall comply with all Applicable Laws, standards and Executive Orders, without limitation to those designated within this Lease.

19.2. Americans with Disabilities Act. Tenant understands and acknowledges the applicability to it of the American with Disabilities Act, the Immigration Reform and

Control Act of 1986 and the Drug Free Workplace Act of 1988. The following is only applicable to construction contracts: Tenant must also comply with A.R.S. § 34-301, "Employment of Aliens on Public Works Prohibited", and A.R.S. § 34-302, as amended, "Residence Requirements for Employees".

19.3. Immigration Laws. Under the provisions of A.R.S. § 41-4401, Tenant hereby warrants to Landlord that it will comply with, and is contractually obligated to comply with, all Federal Immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A) (the "Tenant Immigration Warranty").

19.3.1. A breach of the Tenant Immigration Warranty shall constitute a material breach of this Agreement and shall subject Tenant to penalties up to and including termination of this Lease.

19.3.2. Landlord retains the legal right to inspect the papers of any Tenant contractor or subcontractor's employee who works pursuant to this Lease to ensure that Tenant, contractor or subcontractor is complying with the Tenant Immigration Warranty. Tenant agrees to assist Landlord in regard to any such inspections.

19.3.3. Landlord may, at its sole discretion, conduct random verification of the employment records of Tenant's contractor or subcontractor to ensure compliance with the Tenant Immigration Warranty. Tenant agrees to assist Landlord in regard to any random verification performed.

19.3.4. Neither Tenant, contractor or subcontractor shall be deemed to have materially breached the Tenant Immigration Warranty if Tenant, contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214, Subsection A.

19.3.5. The provisions of this Section 19 must be included in any contract Tenant enters into with any and all of its contractors and subcontractors who provide services under this Agreement. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

20. CASUALTY.

20.1. Landlord's Options. If the Premises are destroyed or rendered untenable, either wholly or in part, by fire or other casualty ("Casualty"), Tenant will immediately notify Landlord in writing upon the occurrence of such Casualty. Landlord may elect either to (i) repair the damage caused by such Casualty as soon as reasonably possible, in which case this Lease will remain in full force and effect, or (ii) terminate the Lease as of the date the Casualty occurred. Landlord will notify Tenant within 60 days after receipt of notice of the Casualty whether Landlord elects to repair the damage or terminate the Lease Term. If Landlord elects to repair the damage, Tenant will pay Landlord the portion of the deductible amount (which deductible shall not exceed \$25,000) under Landlord's insurance allocable to the damage to the Premises and, if the damage was due to an act or omission of Tenant or its employees, agents,

contractors or invitees, the difference between the actual cost of repair and any insurance proceeds received by Landlord.

- 20.2. Tenant's Option to Terminate. If (i) based on the estimate of Landlord's architect or contractor, it will take Landlord more than six months to rebuild the Premises or (ii) the Casualty occurs during the last six months of the Lease Term and the damage is estimated by Landlord to require more than thirty days to repair, Tenant may elect to terminate this Lease as of the date the Casualty occurred, which must be exercised by written notification to Landlord within ten days after receipt of notice regarding the estimate of the time required to rebuild.
 - 20.3. Reduction of Rent. If the Premises is destroyed or damaged by Casualty and Landlord elects to repair or restore the Premises pursuant to the provisions of this Section 20, any Rent payable during the period of such damage, repair and/or restoration will be reduced according to the degree, if any, to which Tenant's use of the Premises is impaired.
 - 20.4. Agreement Controlling. The provisions of this Section 20 will govern the rights and obligations of Landlord and Tenant in the event of any damage to, or destruction of, the Premises. Tenant waives the protection of any statute, code or judicial decision which grants a tenant the right to terminate a lease in the event of the damage or destruction of the leased property.
21. CONDEMNATION. If more than 20% of the floor area of the Premises or more than 25% of the parking at the Premises is taken by eminent domain, either Landlord or Tenant may terminate this Lease as of the date the condemning authority takes title or possession, by delivering notice to the other within 10 days after receipt of written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority takes title or possession). If neither party terminates this Lease, it shall remain in effect as to the portion of the Premises not taken, except that the Base Rent will be reduced in proportion to the reduction in the floor area of the Premises. Any condemnation award or payment will be paid to Landlord. Tenant will have no claim against Landlord for the value of the unexpired lease term or otherwise; provided, however, Tenant may make a separate claim with the condemning authority for its personal property and/or moving costs so long as Landlord's award is not reduced thereby.
 22. ASSIGNMENT AND SUBLETTING.
 - 22.1. Consent of Landlord and EDA. Tenant shall not assign this Lease or sublet the Premises or any part thereof, or mortgage, pledge or hypothecate its leasehold interest or grant any concession or license within the Premises or sublease any operating department therein, whether by sale, assignment, death, incompetency, mortgage, deed of trust, trust, operation of law or otherwise, and whether voluntary or involuntary, without the prior written consent of Landlord and EDA. Landlord may not unreasonably withhold or delay consent. Landlord and Tenant agree that it is reasonable for Landlord to withhold consent if (i) the net worth of assignee/subtenant is below that of the Tenant; (ii) the use is not the same or compatible with other tenants in SAMTEC; (iii) employment level of the assignee/subtenant is significantly lower than Tenant; or (iv) the assignment or subletting does put SAMTEC out of compliance with EDA. Any attempt to do any of the foregoing, without the prior written consent of Landlord and

EDA, shall be void and of no force or effect. This prohibition shall be construed to include a prohibition against an assignment or subletting by operation of law.

- 22.2. Corporate, Partnership or Limited Liability Company Transfer. Any transfer of Tenant's interest in this Lease by merger, consolidation or dissolution or any change in ownership or power to vote a majority of the "voting stock" (as defined in this Section 22.2) or majority in interest in Tenant, if Tenant is a corporation or limited liability company, or any transfer of this Lease by transfer of any other ownership interest of Tenant, or any Guarantor, during the Term shall constitute an assignment for the purpose of this Lease, and shall not be permitted unless Tenant obtains the consents set forth in Section 22.1. For purposes of this Section, the term "voting stock" means shares of stock or interest of any kind, regularly entitled to vote for the election of directors, managing partners, or managers or their equivalent of the corporation, limited liability company, partnership or other entity involved.
- 22.3. Assignment; Pledging. If this Lease is assigned or if the Premises are subleased (whether in whole or in part) or in the event of the mortgage, pledge or hypothecation of the leasehold interest or grant of any concession or license within the Premises or if the Premises are occupied in whole or in part by anyone other than Tenant in violation of the terms of this Section, Landlord shall have the right to do the following: (i) collect rent from the assignee, sublessee, mortgagee, pledgee, party to whom the leasehold interest was hypothecated, concessionee or licensee or other occupant and apply the net amount collected to the Rent payable hereunder without being deemed to have approved or consented to such action by Tenant, and/or (ii) re-enter the Premises, assume and take possession of the whole or any part thereof, and remove all persons or personal property therefrom, by direct or summary action, or in a different type of suit or proceeding, by force, or otherwise, without being deemed guilty of trespass or other actionable wrong by reason thereof, and without being liable for damages therefor or in connection therewith, and after demand made therefor, Tenant or anyone in possession claiming under Tenant shall be deemed guilty of unlawful detainer and subject to such summary or other action as may be provided by law.
- 22.4. Event of Assignment or Subletting. If Tenant wishes to assign this Lease or sublet all or any part of the Premises, it shall first give written notice of such intention to Landlord and EDA, furnishing Landlord and EDA with a copy of the final proposed assignment or sublease document and with full information as to the identity and financial status of the proposed assignee or subtenant. Any proposed assignment document shall provide, without limitation, the following: (i) that the assignee thereunder shall be liable for all of the obligations of Tenant under this Lease (including, without limitation, the payment of any and all amounts paid or to be paid by Tenant under this Lease on an estimated basis and reconciled on an annual basis, regardless of whether such reconciliation occurs subsequent to such assignment), and (ii) that any security deposit paid to Landlord under this Lease is transferred to such assignee. Within 90 days after receipt of such notice and documentation from Tenant, Landlord shall have the right, by notice to Tenant, to either: (1) terminate this Lease, in which case Tenant shall be relieved of further liability hereunder and under the proposed assignment or sublease, (2) approve or reject such assignment or subletting, or (3) convert the assignment or sublease into a direct lease between Landlord and such proposed assignee or sublessee and receive all of the rents. If no such response is given, Landlord shall be deemed to have elected to disapprove the assignment or subletting.

Notwithstanding the foregoing, Tenant may not attempt to assign or sublease this Lease until 24 months after the commencement of this Lease.

- 22.5. Permitted Transfer. Notwithstanding anything contained in this Lease to the contrary, Tenant, without Landlord's prior consent but with 30 days prior written notice, may assign this Lease or sublet the whole of the Premises (a "Permitted Transfer") to a legal entity (a "Permitted Transferee") which is either: (A) the successor, by merger or otherwise, to all or substantially all of Tenant's assets and liabilities, or (B) controls or is controlled by or is under common control with Tenant. For purposes of this Section, the term "control" (including the terms "controls," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise. Any such assignment or subletting shall be otherwise subject to and upon all of the terms, provisions and covenants of this Lease. However, any assignment, including a Permitted Transfer, shall not in any way relieve Tenant of liability as to any term or condition of this Lease without the express approval of Landlord.
- 22.6. Miscellaneous Provisions. Landlord agrees to give an estoppel letter to any assignee or sublessee to which Landlord consents or in the event of a Permitted Transfer, upon request from such assignee or sublessee. Any sale, assignment, mortgage, transfer or subletting of this Lease which is not in compliance with the provisions of this Section 22 shall be void and of no further force or effect. All Rent paid to Tenant by an assignee or sublessee shall be received by Tenant in trust for Landlord and forwarded immediately to Landlord without offset or reduction, or, at Landlord's election, such Rent shall be paid directly to Landlord (to be applied as a credit and offset to Tenant's Rent obligations). All consideration paid to Tenant for an assignment, sublease or other right to use the Premises which is in excess of the amount required to be paid over to Landlord for the use of the Premises (or pro rata portion of the amount required to be paid to Landlord in the case of a sublease of a portion of the Premises) shall be paid to Landlord by Tenant upon receipt. Tenant shall pay all costs incurred by Landlord in connection with any proposed assignment or sublease, including reasonable attorneys' fees, and shall pay any brokerage commission incurred by reason of any such proposed assignment or sublease.
- 22.7. No Release or Waiver. Notwithstanding anything contained in this Lease to the contrary, no consent or action by Landlord, and no assignment or subletting permitted by Landlord and EDA, shall be deemed a waiver or a release of Tenant from the performance by Tenant of its covenants, duties and obligations hereunder. All obligations and duties shall continue notwithstanding any such consent, assignment or subletting.
23. INDEMNIFICATION.
- 23.1. Tenant Indemnification. To the fullest extent permitted by law, Tenant hereby waives all claims against Landlord and its Representatives (collectively, the "Indemnitees") for damage to any property or injury to or death of any person in, upon or about the Premises arising at any time and from any cause. Tenant shall hold Indemnitees harmless from and defend Indemnitees from and against all claims, liabilities, judgments, demands, causes of action, losses, damages, costs and expenses, including reasonable attorneys' fees, for damage to any property or injury to or death of any person arising from (i) the use or occupancy of the Premises by Tenant or

persons claiming under Tenant, except such as is caused by the sole negligence or willful misconduct of Landlord, its agents, employees or contractors, (ii) the negligence or willful misconduct of Tenant in, upon or about the Premises, or (iii) any breach or default by Tenant under this Lease.

- 23.2. Third Party Claims. Landlord shall have no liability to Tenant or other third parties in the event of damage to or loss of personal property (including Tenant's property) within the Premises or any other injury or damage arising from any act or omission of co-tenants or other occupants of SAMTEC, or of their employees, or of other third parties, not including Landlord, its agents, contractors or employees.
- 23.3. Tenant's Risk. All personal property in the Premises shall be at Tenant's sole risk, and Landlord shall not be liable for any damage done to, or loss of, such personal property, or for damage or loss suffered by the business income or occupation of Tenant arising from any act of neglect of third parties, or from bursting, overflowing, or leaking of water, sewer or steam pipes, rain, wind, tornadoes, floor or other surface or subsurface water, from overflow of drainage facilities or backup or stoppage of any drain, sewer or other water runoff facility or device or from the heating or plumbing fixtures, noise, dust, or from electric wires, or from gas, odors, natural disaster, riot or act of violence, leaking roofs or caused in any other manner. Tenant shall give Landlord prompt notice of any accident to, defect in or problem in the Premises or SAMTEC of which Tenant has knowledge or notice. Tenant, for itself and its agents, employees, representatives, contractors, successors, assigns, invitees and licensees, expressly assumes all risks of injury or damage to person or property, whether proximate or remote, resulting from the condition of the Premises or any part thereof.
- 23.4. Survival. All representations and warranties of Landlord and Tenant, Tenant's indemnity under Insurance, Section 15, the provisions of Use of Premises, Section 7, and all obligations of Tenant to pay Rent and Additional Rent hereunder, shall survive the termination of this Lease.

24. DEFAULT.

- 24.1. Default Definition. The occurrence of all or any of the following shall constitute an "Event of Default" by Tenant:
- 24.1.1. Any installment of Rent, Additional Rent or any other sum(s) required to be paid by Tenant hereunder, or any part thereof, shall at any time be in arrears and unpaid following the due date and after five days written notice thereof as herein provided;
- 24.1.2. Tenant has Vacated or Abandoned the Premises, and such conditions continues for a period of more than five days after Tenant's receipt of written notice thereof. For purposes of this subsection, the term Vacated or Abandoned shall mean that Tenant has: (1) ceased operating for business in the Premises, and (2) has either: (i) verbally or in writing expressed to Landlord or its agent its intention to cease performing all or any of its obligations under this Lease, or (ii) removed such items of Tenant's property from the Premises so as to render the Premises unsuitable for the operation of Tenant's business therein, or (iii) tendered the keys to the Premises to Landlord or its agent. Tenant hereby agrees that no acceptance of notice or of the keys to the Premises by Landlord or any agent of Landlord shall

constitute an acceptance of surrender of the Premises or terminate this Lease or Tenant's liability hereunder;

- 24.1.3. There is any default or breach on the part of Tenant in the observance or performance of any of the other covenants, agreements, or conditions of this Lease on the part of Tenant to be kept and performed, and said default or breach continues for a period of 30 days after notice thereof from Landlord to Tenant (or, if such default cannot reasonably be cured within 30 days, if Tenant fails to commence to cure the default within such 30-day period or thereafter fails to diligently pursue such cure to completion, but in no event shall the cure period exceed 90 days);
- 24.1.4. If: (1) Tenant or any guarantor of Tenant's obligations under this Lease becomes insolvent, or makes a transfer in fraud of creditors, or makes an assignment for the benefit of creditors, (2) Tenant or any guarantor of Tenant's obligations under this Lease files a petition under any section or chapter of the United States Bankruptcy Code, as amended, or under any similar law or statute of the United States or any State thereof, or an order for relief relating to Tenant or any guarantor of Tenant's obligations under this Lease is granted in proceedings filed against Tenant or any guarantor of Tenant's obligations under this Lease, or (3) a receiver or trustee is appointed for the Premises or for all or substantially all of the assets of Tenant or any guarantor of Tenant's obligations under this Lease;
- 24.1.5. This Lease or the Premises or any part of the Premises are taken upon execution or by other process of law directed against Tenant, or are taken upon or subject to any attachment at the instance of any creditor or claimant against Tenant, and the attachment is not discharged or disposed of within 15 days after its levy;
- 24.1.6. Tenant fails to take possession of the Premises on the Compulsory Commencement Date as required hereunder.
- 24.2. Remedies. Upon an Event of Default of Tenant hereunder, Landlord, at its option, may exercise any or all of the following remedies, which shall be in addition to the exercise of all rights and remedies of Landlord under this Lease, at law or in equity, with respect to such Event of Default:
 - 24.2.1. Cancel and terminate this Lease and all rights of Tenant hereunder and enter the Premises and take possession thereof;
 - 24.2.2. Without terminating the Lease, re-enter and take possession of the Premises and remove all persons and property therefrom. Tenant hereby grants to Landlord a lien and security interest as security for payment of all Rent, Additional Rent, or any other charges now or hereafter payable by Tenant hereunder, upon all equipment, fixtures, and inventory (and the proceeds thereof) within the Premises, including all improvements, equipment, fixtures, inventory, merchandise, and other personal property now or hereafter placed on or in the Premises, to the full extent of Tenant's and any assignee's, or subtenant's interest herein. Such lien shall include the right to prevent removal of the property from the Premises and may be enforced without any type of notice to Tenant. Landlord shall also have all other rights and

remedies upon default provided by law, including those set forth in the Uniform Commercial Code. The sale, lease, or other disposition of the property shall be either public or private after at least ten days' notice to Tenant at its last known address, and Landlord shall have the right and privilege to be a purchaser at any such sale. Landlord and Tenant agree that ten days' notice of such sale, lease, or other disposition of the property is reasonable under the circumstances. Landlord shall not be deemed guilty of trespass or liable for any loss or damage occasioned thereby. Should Landlord elect to re-enter, as herein provided, or should Landlord take possession pursuant to legal proceedings or pursuant to any notice provided for by law or by this Lease, Landlord may either cancel this Lease pursuant to the rights reserved elsewhere in this Lease, or Landlord may, from time to time, without canceling this Lease, make such alterations and repairs as may be necessary in order to relet the Premises or any part thereof, for such term (which may be for a term extending beyond the Term of this Lease) and at such rent and upon such other terms and conditions as Landlord, in its sole discretion, may deem advisable. Upon each such reletting, all rentals received by Landlord from such reletting shall be applied first, to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord, second, to the payment of any costs and expenses of such reletting, including brokerage fees and reasonable attorneys' fees, third, to the payment of costs of any alterations and repairs necessary to relet the Premises, fourth, to the payment of Rent due and unpaid hereunder, and the residue, if any, shall be held by Landlord and applied in payment of future Rent or damage as such amounts may become due and payable hereunder during the entire term of the Lease. If such rentals received from such reletting during any month are less than that to be paid during that month by Tenant hereunder, Tenant shall pay any such deficiency to Landlord. No such re-entry or taking possession of said Premises by Landlord shall be construed as an election on its part to cancel this Lease unless a notice of such intention is given to Tenant or unless the cancellation thereof is decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to cancel this Lease for such previous Event of Default;

24.2.3. Alter locks and other security devices at the Premises in accordance with the Applicable Law;

24.2.4. Without limitation, exercise any other right at law or in equity, including specifically, but not by way of limitation, the pursuit of temporary or permanent injunctive relief.

24.3. Additional Provisions. If, after default, Tenant voluntarily gives up or tenders possession of the Premises to Landlord by delivering the keys to the Premises to Landlord and/or its agent, such actions shall be deemed to be in compliance with Landlord's rights, and the acceptance thereof by Landlord shall not be deemed to constitute a surrender of the Premises or otherwise affect Landlord's rights in connection with such default; it being understood and agreed that such surrender may be effected only by the written agreement of Landlord and Tenant. Tenant hereby waives (to the extent legally permissible) any and all notices otherwise required under common law, as same presently exist or may be hereafter amended (or any subsequent similar statute relating to notice prior to instituting such action or

proceeding). In the event of termination of this Lease or of Tenant's right to possession of the Premises or repossession of the Premises for an Event of Default, Landlord shall not have any obligation to relet or attempt to relet the Premises, or any portion thereof, or to collect rental after reletting (if any), but Landlord shall have the option to relet or attempt to relet and in the event of reletting Landlord may relet the whole or any portion of the Premises for any period, to any tenant, and for any use and purpose. In the event that Landlord takes possession of the Premises, Landlord shall have the right to use all the furniture, fixtures and equipment at the Premises, including that which is owned by or leased to Tenant, prior to any foreclosure thereon by Landlord or repossession thereof by Landlord, or third party having a lien thereon. Landlord shall also have the right to remove from the Premises (without legal process) all or any portion of such furniture, fixtures, equipment and other property located thereon and place same in storage at any premises elected by Landlord, and in such event, Tenant shall be liable to Landlord for costs incurred by Landlord in connection with such removal and storage, together with interest thereon at the Interest Rate. Landlord shall also have the right to relinquish possession of all or any portion of such furniture, fixtures, equipment and other property to any person claiming to be entitled to possession thereof ("Claimant"), without the necessity of making any investigation or inquiry as to the basis upon which Claimant purports to act, and Tenant agrees to indemnify, defend and hold Landlord harmless from all cost, expense, loss, damage and liability incident to Landlord's relinquishment of possession of all or any portion of such furniture, fixtures, equipment or other property. Tenant stipulates and agrees that the rights set forth in this Section are commercially reasonable.

25. NOTICES. No notice, consent, approval or other communication given in connection herewith shall be validly given, made, delivered or served unless in writing and (i) delivered in person, (ii) sent by registered or certified United States mail, postage prepaid, return receipt requested, or (iii) given to a recognized and reputable overnight delivery service, to the parties at the addresses provided in Item 13 of the Cover Sheet, or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (i) when delivered to the party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

26. MISCELLANEOUS PROVISIONS.

26.1. Audits and Inspections. At any time during normal business hours and as frequently as is deemed necessary, Tenant shall make available to Landlord and EDA (or its authorized agents), for their examination, all of its records pertaining to matters covered by this Lease, and only matters relating to this Lease.

26.2. Retention of Records. All records in the possession of Tenant pertaining to this Lease shall be retained for a period of 3 years after the expiration of this Lease or any extensions thereof. All records shall be retained beyond the 3 year period if audit

findings have not been resolved within that period or if other disputes have not been resolved.

- 26.3. Relationship. Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating a relationship between the parties hereto other than the relationship of landlord and tenant.
- 26.4. Submission. The submission of this Lease for examination does not constitute a reservation or any option for the Premises and this Lease becomes effective only upon its execution and delivery by both parties hereto.
- 26.5. Headings. The Section headings used throughout this Lease are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease.
- 26.6. Construction. Whenever herein the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders. The captions, section numbers, and index appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such sections of this Lease nor in any way affect this Lease.
- 26.7. Independent Covenants. The doctrine of independent covenants shall apply in all matters relating to this Lease including, without limitation, all obligations of Landlord and Tenant to perform their respective obligations under this Lease. All obligations of Tenant which by their nature involve performance after the end of the Term, or which cannot be ascertained to have been performed until after the end of the Term of this Lease, shall survive the expiration or earlier termination of this Lease.
- 26.8. Time of Essence & Binding Nature. Time is of the essence of all of the terms and provisions of this Lease, and the terms and conditions hereof shall extend to and be binding upon the heirs, executors, successors and assigns of the parties hereto and mention of the singular shall include the plural and the plural shall include the singular.
- 26.9. Public Notice. Pursuant to A.R.S. § 42-6202 (C), (D) and (E), within 30 days of after entering into this Lease, Landlord shall:
- 26.9.1. Record a memorandum of lease in the office of the Pima County Recorder, which shall include the basic lease terms, including the names of the parties, the leased property, the lease term, including the beginning and ending dates, and any options to renew the lease or to purchase any of the government property improvement or government owned land;
 - 26.9.2. Submit to the county treasurer copies of the lease or an abstract of the lease;
 - 26.9.3. Post this Lease on the Town of Sahuarita website;
 - 26.9.4. Submit a current link to the Lease on the Town's website to the department of revenue and notify the department when the website no longer contains any active leases.
- 26.10. Trial Waiver. THE PARTIES HERETO IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER

PARTY AGAINST THE OTHER ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND **TENANT, OR TENANT'S USE AND OCCUPANCY OF THE PREMISES.**

- 26.11. **Governing Law.** This Lease shall be subject to the laws of the State of Arizona, and the parties agree that any litigation related to this Lease shall occur in Pima County, Arizona.
- 26.12. **Attorneys' Fees.** In the event either party to this Lease brings any legal action to enforce the provisions hereof, the prevailing party in any such action shall be entitled to recover from the non-prevailing party all attorneys' fees and other fees and costs incurred by such prevailing party in connection with any such action.
- 26.13. **Force Majeure.** In the event either party hereto shall be delayed or hindered in or prevented from the performance of any act required under this Lease by reason of strikes, lockouts, labor troubles, acts of God, inclement weather, including periods of rain, inability to procure materials, failure of power, restrictive governmental law or regulations, riots, insurrections, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease ("Force Majeure"), then performance of such act shall be excused for the number of calendar days of such delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. No delay under this Section shall be effective unless Landlord or Tenant notifies the other of the delay within 20 days after cessation of the event giving rise to such delay setting forth the nature of such Force Majeure and the duration of such delay. The provisions of this Section shall not: (i) operate to excuse Tenant from prompt payment of Rent, Additional Rent or any other payment required by the terms of this Lease, nor (ii) be applicable to delays resulting from the inability of a party to obtain financing or to proceed with its obligations under this Lease because of a lack of funds.
- 26.14. **Limitation of Landlord's Liability.** Notwithstanding any other provision of this Lease, Tenant agrees that neither Landlord nor any of Landlord's officers, directors, partners, shareholders, members or employees shall have any personal liability hereunder. Additionally, notwithstanding anything in this Lease to the contrary, in no event shall Landlord ever be liable to Tenant for consequential damages or special damages.
- 26.15. **Legal Representation of the Parties.** This Lease was negotiated by the Parties hereto with the benefit of legal representation and any rules of construction or interpretation otherwise requiring this Lease to be construed or interpreted against any party shall not apply to any construction or interpretation hereof or thereof.
- 26.16. **Agreement.** This Lease (including all Riders, Exhibits, Addenda and Guaranty, if any) is the complete agreement between Landlord and Tenant concerning the Premises. There are no oral agreements, understandings, promises or representations between Landlord and Tenant affecting this Lease. All prior negotiations and understandings, if any, between the Parties hereto with respect to the Premises, shall be of no force or effect and shall not be used to interpret this Lease. This Lease shall be considered to have been executed by a person if there exists a photocopy, facsimile copy, or a photocopy of a facsimile copy of an original hereof or of a counterpart hereof which has been signed by such person. Any photocopy, facsimile copy, or photocopy of facsimile copy of this Lease or a counterpart hereof shall be admissible into evidence in any proceeding as though it were an original.

- 26.17. Amendment. Any amendment to this Lease shall be in writing and approved by the Parties. Prior EDA permission is required for any amendment or modification of this Lease. Extensions that do not change any other terms and conditions do not require prior EDA permission, but EDA must be provided a copy of the extension within a reasonable time after execution.
- 26.18. Severability. If any provision of this Lease or the application of it to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each provision of the Lease shall be valid and enforceable to the fullest extent permitted by law, and the remaining provisions of this Lease shall be interpreted so as to nearly as possible conform to the intent of the parties as indicated in this Lease.
- 26.19. Conflict of Interest. Landlord may cancel this Lease pursuant to A.R.S. § 38-511 without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Lease on behalf of Landlord is, at any time while the Lease or any extension of the Lease is in effect, an employee of Tenant in any capacity or a consultant to Tenant with respect to the subject matter of the Lease. The cancellation shall be effective when written notice from Landlord is received by Tenant, unless the notice specifies a later time.
- 26.20. Incorporation of Cover Sheet and Exhibits. The Cover Sheet and all Exhibits identified in this Lease shall be and are hereby incorporated into this Lease by this reference.
- 26.21. No Other Brokers. Landlord and Tenant each represent and warrant to the other that the Brokers listed on the Cover Sheet are the only agents, brokers, finders or other parties with whom it has dealt who may be entitled to any commission or fee with respect to this Lease or the Premises. Landlord and Tenant each agree to indemnify and hold the other party harmless from any claim, demand, cost or liability, including, without limitation, attorneys' fees and expenses, asserted by any party other than the Brokers based upon dealings with that party.
- 26.22. Radon. Pursuant to state law, Tenant is hereby notified as follows: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings worldwide. Additional information regarding radon and radon testing may be obtained from your county health unit.

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IN WITNESS THEREOF, the Parties have affixed their signatures to this Lease on the dates set forth above.

“LANDLORD”

TOWN OF SAHUARITA, an Arizona
municipal corporation

Tom Murphy

Tom Murphy, Mayor

ATTEST:

Lisa Cole

Lisa Cole, MMC, Town Clerk

APPROVED AS TO FORM:

Jon M. Paladini

Jon Paladini, Town Attorney

“TENANT”

Advanced Technologies Applications Group Inc
a Delaware Corporation

By: *[Signature]*

Title: CEO & Founder



EXHIBIT A
Description of the Premises

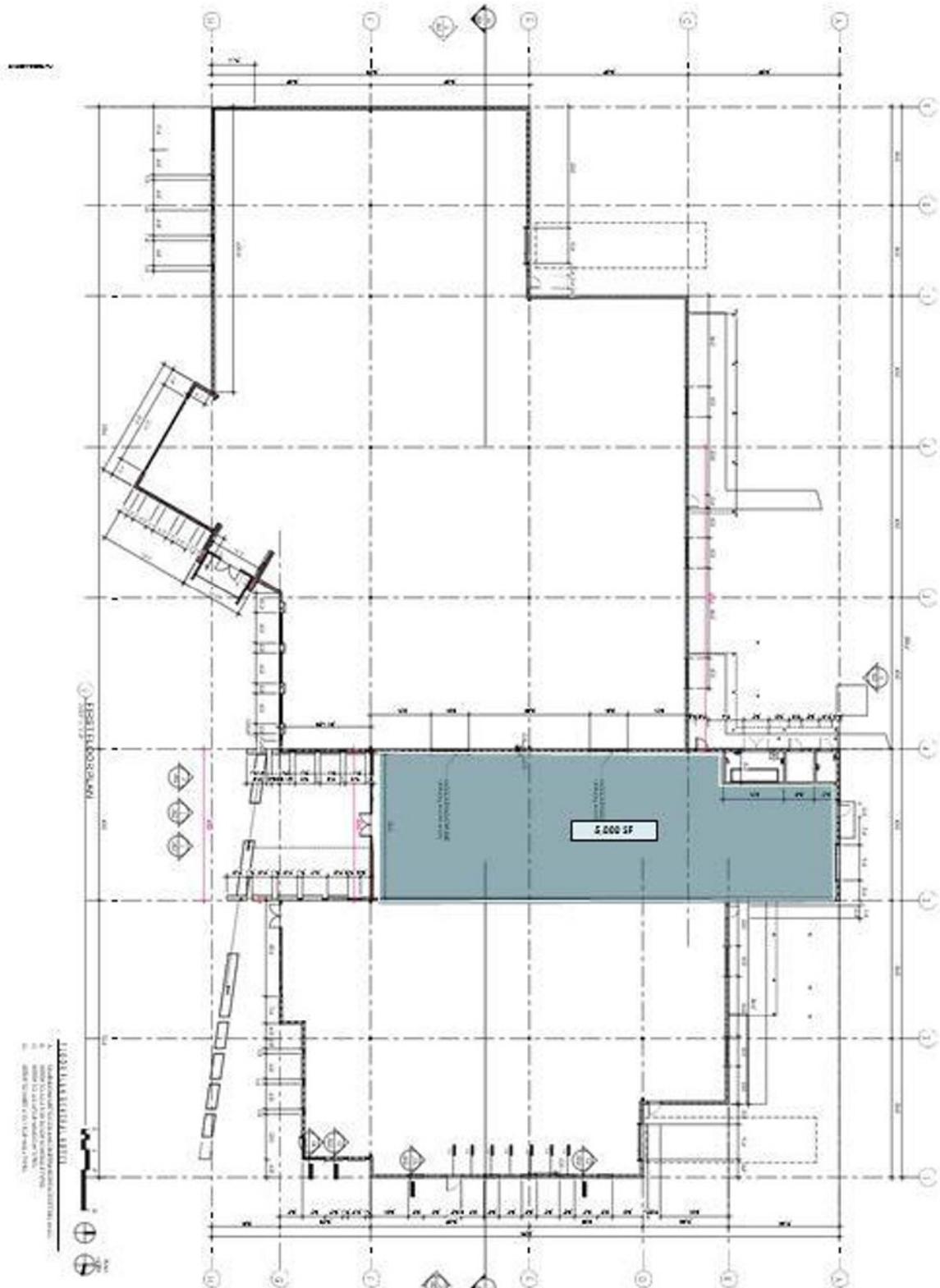


EXHIBIT B
Special Award Conditions

EXHIBIT C
Landlord Improvements to SAMTEC

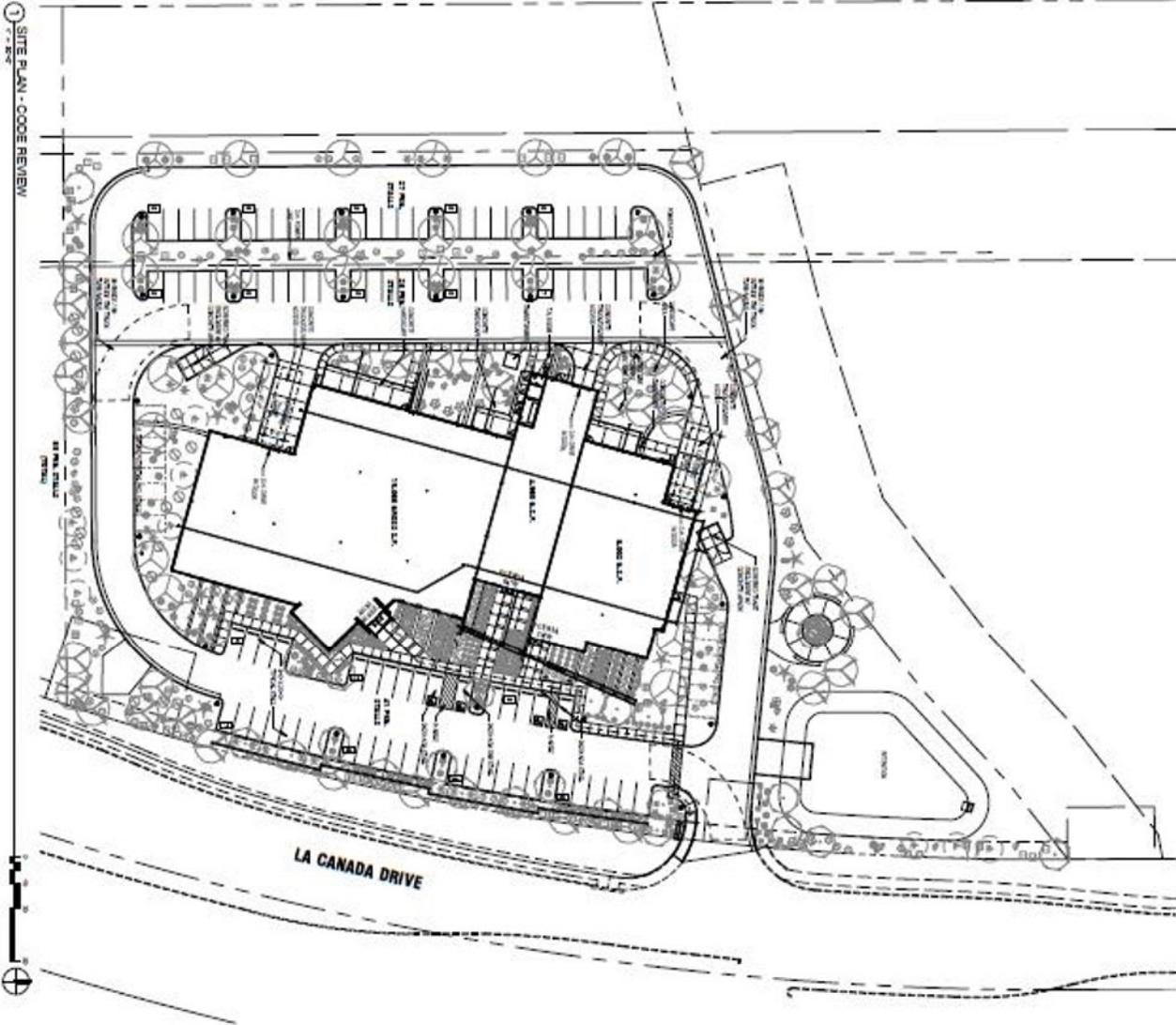
Two bathrooms and one demising wall.

EXHIBIT D
Tenant Improvements to Premises

See Cover Sheet Item 12

EXHIBIT E

The SAMTEC Property, Building & Common Area (Development Plan)



VICINITY MAP

PLANNING AND ZONING ANALYSIS

The location of this project is within the City of Sahuarita, which is currently zoned R-100 (Residential Single-Family). The project is a commercial development and is not currently permitted in this zone. The City of Sahuarita is currently reviewing the City Code to allow for commercial development in this zone. The project is currently pending approval of the City Code.

PROPOSED DEVELOPMENT: 100,000 sq. ft. of commercial space, including a 10,000 sq. ft. building and a 90,000 sq. ft. parking lot.

EXISTING DEVELOPMENT: 100,000 sq. ft. of residential space, including 100 single-family homes.

PROPOSED CHANGES: The project is currently pending approval of the City Code. The City Code is currently reviewing the City Code to allow for commercial development in this zone. The project is currently pending approval of the City Code.

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62.0

DATE: 02/20/2023

PROJECT: SAMTEC PROPERTY, BUILDING & COMMON AREA (DEVELOPMENT PLAN)

SCALE: AS SHOWN

TOWN OF SAHUARITA
SAMTEC - SHELL

16220 S. LA CANADA DRIVE
SAHUARITA, AZ 85629

COMMUNITY

LANDSCAPE ARCHITECT
MORRIS CORP.

377 N. CANTON ROAD
TUCSON, AZ 85718
Phone: 520.891.2800

STRUCTURAL ENGINEER

TRINIDAD TRUJILLO
ENGINEER

3028 N. CANTON ROAD
TUCSON, AZ 85718
Phone: 520.322.3422

Mechanical Engineer

MECHANICAL ENGINEER
MORRIS CORP.

377 N. CANTON ROAD
TUCSON, AZ 85718
Phone: 520.891.2800

Electrical Engineer

ELECTRICAL ENGINEER
MORRIS CORP.

377 N. CANTON ROAD
TUCSON, AZ 85718
Phone: 520.891.2800

bws ARCHITECTS

BURTON WILD HOPPING D'AMICO ARCHITECTS

1025 E. FT. LORVELL RD.
TUCSON, AZ 85718
Phone: 520.384.8146

EXHIBIT F
Intentionally Omitted

EXHIBIT G
Commencement Date Memorandum

THIS COMMENCEMENT DATE MEMORANDUM entered into this _ day of _____, 202_ (the "Effective Date"), by and between the TOWN OF SAHUARITA, ARIZONA, an Arizona municipal corporation (the "Landlord"), and Advanced Technologies Applications Group Inc, a Delaware corporation (the "Tenant"). Landlord and Tenant are sometimes referred to herein collectively as the "Parties" or individually as a "Party."

RECITALS

- A. By that certain Lease dated the 25th day of September 2023, between Landlord and Tenant (the "Lease"), Landlord leased to Tenant and Tenant leased from Landlord the Premises, subject to the conditions and limitations therein contained.
- B. The Commencement Date is September 25th, 2023
- C. Section 3.2 of the Lease provides that, upon determination of the Commencement Date, Landlord and Tenant shall execute a memorandum which shall set forth, among other things, the Commencement Date, the exact Floor Area of the Premises, and the date on which the initial term of the Lease shall expire (subject to Tenant's right, if any, to extend the Term of the Lease as provided therein), and shall evidence Tenant's acceptance of the Premises and agreement that Landlord has fully complied with Landlord's covenants and obligations.
- D. The Commencement Date and such other dates have been determined and, accordingly, the parties desire to enter into this Memorandum.
- E. Unless otherwise provided herein, all capitalized words and terms in this Memorandum shall have the same meanings ascribed to such words and terms in the Lease.

AGREEMENT

NOW, THEREFORE, for and in consideration of the rents, foregoing recitals, the mutual covenants and agreements hereinafter provided, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed between Landlord and Tenant as follows:

1. The Commencement Date is September 25th, 2023. Tenant's obligation to pay Minimum Rent and other charges payable by Tenant under the Lease shall commence eight (8) months after the Commencement Date set forth above on the Compulsory Commencement Date.
2. The date on which the initial Term of the Lease shall expire, unless such Term is extended as provided in the Lease, is sixty-eight (68) months after the Commencement Date.
3. Pursuant to Section 12, the Estimated Operating Expenses for the remainder of this Expense Year is_____.
4. Tenant hereby acknowledges Tenant's acceptance of possession of the Premises and agrees that Landlord has fully complied with Landlord's covenants and obligations under the Lease.
5. This Memorandum may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS THEREOF, the Parties have affixed their signatures to this Memorandum on the dates set forth above.

“LANDLORD”

TOWN OF SAHUARITA, an Arizona municipal Corporation

Tom Murphy, Mayor

ATTEST:

Lisa Cole, MMC, Town Clerk

APPROVED AS TO FORM:

Jon Paladini, Town Attorney

“TENANT”

ADVANCED TECHNOLOGIES APPLICATIONS GROUP INC., a Delaware Corporation

By: _____

Title: _____

EXHIBIT H
Right(s) to Renew
Right of First Offer to Expand into Adjacent Space
Other Rights

Intentionally Omitted

EXHIBIT I
Guarantor

GUARANTEE OF LEASE

1. In consideration of the execution of the Lease, dated September 25th, 2023, for the Premises located at 16220 South La Cañada Drive, Sahuarita, Arizona. by and between THE TOWN OF SAHUARITA, ARIZONA ("Landlord") and Advanced Technologies Applications Group Inc ("Tenant") and for valuable consideration, receipt of which is hereby acknowledged, the undersigned, herein referred to as Guarantors, do hereby jointly and severally guarantee unconditionally to Landlord, and/or Landlord's successors and assigns, the prompt payment by Tenant of the Rent or any other sums which become due pursuant to the Lease, to which this Guarantee is attached, including any and all court costs or attorneys' fees incurred in enforcing the Lease Agreement.
2. In the event of the breach of any terms of the Lease Agreement by Tenant, Guarantors shall be liable for any damages, financial or physical, caused by Tenant, including any and all legal fees incurred in enforcing the Lease Agreement.
3. This Guarantee may be immediately enforced by Landlord upon any default by Tenant and an action against Guarantor may be brought at any time without first seeking recourse against Tenant.
4. The insolvency of Tenant or nonpayment of any sums due from Tenant may be deemed a default giving rise to action by Landlord against Guarantor.
5. If any legal actions or other proceedings are brought by any party to enforce any part of this Guarantee, the prevailing party shall be entitled to reasonable attorneys' fees and costs incurred.
6. This Guarantee does not confer a right to possession of the premises by Guarantors, and Landlord is not required to serve Guarantor with any notices to terminate or to perform covenants, including any demand for payment of rent, prior to Landlord proceeding against Guarantors for obligations of Guarantors under this Guarantee.
7. Unless released in writing by Landlord, Guarantors shall remain obligated by the terms of this Guarantee for the entire period of the tenancy as provided by the Lease Agreement and for any extensions granted pursuant thereto.
8. In the event the terms of said Lease Agreement are modified by Landlord, with or without the knowledge or consent of Guarantors, Guarantors waive any and all rights to be released from the provisions of this Guarantee and Guarantor shall remain obligated by said additional modifications and terms of the Lease Agreement.
9. Guarantors hereby consent in advance to any changes, modifications, additions, or deletions of the Lease Agreement made and agreed to by Landlord and Tenant during the entire period of the tenancy.

Guarantor's Signature:

Name: (please print):
Guarantor's Address:

Phone:
Email:

Guarantor's Signature:

Name: (please print):
Guarantor's Address:
Phone:
Email:

EXHIBIT J
Rules and Regulations

1. In the event of any conflict between the terms of these rules and regulations and the express provisions of the Lease, the express, applicable provisions of the Lease shall control. Landlord reserves the right, without the approval of Tenant, to rescind, add to and amend any rules or regulations, to add new reasonable rules or regulations and to waive any rules or regulations with respect to any tenant or tenants. Tenant shall provide a copy of these rules and regulations to each of its employees to facilitate compliance with these standards.
2. The sidewalks, walks, plaza entries, corridors, ramps, staircases and elevators of SAMTEC shall not be obstructed, and shall not be used by Tenant, or the employees, agents, servants, visitors or invitees of Tenant, for any purpose other than ingress and egress to and from the Premises. No skateboards, roller skates, roller blades or similar items shall be used in or about SAMTEC.
3. No freight, furniture or other large or bulky merchandise or equipment of any description will be received into SAMTEC or carried into the elevators, if any, except in such a manner, during such hours and using such elevators and passageways as may be approved or designated by Landlord, and then only upon having been scheduled in advance. Any hand trucks, carryalls, or similar equipment used for the delivery or receipt of merchandise or equipment shall be equipped with rubber tires, side guards and such other safeguards as Landlord shall reasonably require. Although Landlord or its personnel may participate or assist in the supervision of such movement, Tenant assumes financial responsibility for all risks as to damage to articles moved and injury to persons or public engaged or not engaged in such movement, including any equipment, property or personnel of Landlord damaged or injured in connection with carrying out this service for Tenant.
4. Landlord shall have the right to prescribe the weight, position and manner of installation of safes or other heavy equipment which shall, if considered necessary by Landlord, be installed in a manner which shall insure satisfactory weight distribution. All damage done to SAMTEC by reason of a safe or any other article of Tenant's office equipment being on the Premises shall be repaired at the expense of Tenant. The time, routing and manner of moving safes or other heavy equipment shall be subject to prior approval by Landlord.
5. Excluding Tenant supply of same, only persons authorized by Landlord will be permitted to furnish newspapers, ice, drinking water, towels, barbering, shoe shining, janitorial services, floor polishing and other similar services and concessions in SAMTEC, and only at hours and under regulations fixed by Landlord.
6. Tenant, or the employees, agents, servants, visitors or invitees of Tenant, shall not at any time place, leave or discard any rubbish, paper, articles or object of any kind whatsoever outside the doors of the Premises or in the corridors or passageways of SAMTEC.
7. Tenant shall not place, or cause or allow to be placed, any sign, placard, picture, advertisement, notice or lettering whatsoever, in, about or on the exterior of the Premises, or any building in SAMTEC, or which is visible from the exterior of any building in SAMTEC (e.g. in a window), except in and at such places as may be designated by Landlord and consented to by Landlord in writing. Any such sign, placard, advertisement, picture, notice or lettering so placed without such consent may be removed by Landlord without notice to and at the expense of Tenant. All lettering and graphics on corridor doors shall conform to the building standard prescribed by Landlord.

8. Notwithstanding the foregoing agreement in the Lease, Tenant shall not place, or cause or allow to be placed, any satellite dish, communications equipment, computer or microwave receiving equipment, antennae or other similar equipment about or on the exterior of the Premises, Building or SAMTEC. Any such equipment so placed may be removed by Landlord without notice to and at the expense of Tenant.
9. Canvassing, soliciting or peddling in the Building and/or SAMTEC is prohibited and Tenant shall cooperate reasonably to prevent same.
10. Landlord shall have the right to exclude any person from SAMTEC, and any person in SAMTEC will be subject to identification by employees and agents of Landlord. Any persons in or entering SAMTEC shall be required to comply with the security policies of SAMTEC. If Tenant desires additional security service for the Premises, Tenant shall have the right (with advance written consent of Landlord) to obtain such additional service at Tenant's sole cost and expense. Tenant shall keep doors to unattended areas locked and shall otherwise exercise reasonable precautions to protect property from theft, loss or damage. Landlord shall not be responsible for the theft, loss or damage of any property or for any error with regard to the exclusion from or admission to SAMTEC of any person. In case of invasion, mob, riot or public incitement, the Landlord reserves the right to prevent access to SAMTEC during the continuance of same by closing the doors or taking other measures for the safety of the tenants and protection of SAMTEC and property or persons therein.
11. Except as provided in the Lease, only workmen employed, designated or approved by Landlord may be employed for repairs, installations, alterations, painting, material moving and other similar work that may be done in or on the Premises.
12. Tenant shall not bring or permit to be brought or kept in or on the Premises any flammable, combustible, corrosive, caustic, poisonous, or explosive substance, or firearms, or cause or permit any odors to permeate in or emanate from the Premises, or permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of SAMTEC by reason of light, radiation, magnetism, noise, odors and/or vibrations.
13. Except as provided in the Lease, Tenant shall not mark, paint, drill into, or in any way deface any part of SAMTEC or the Premises. No boring, driving of nails or screws, cutting or stringing of wires shall be permitted, except with the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed. Tenant shall not install any resilient tile or similar floor covering in the Premises, except with the prior approval of Landlord, which approval shall not be unreasonably withheld or delayed.
14. No additional locks or bolts of any kind shall be placed on any door in SAMTEC or the Premises and no lock on any door therein shall be changed or altered in any respect. Tenant shall not make duplicate keys. All keys shall be returned to Landlord upon the termination of this Lease and Tenant shall give to Landlord the explanations of the combinations of all safes, vaults and combination locks remaining with the Premises. Landlord may at all times keep a pass key to the Premises. All entrance doors to the Premises shall be left closed at all times and left locked when the Premises are not in use.
15. Tenant shall give immediate notice to Landlord in case of known theft, unauthorized solicitation or accident in SAMTEC or the Premises, or of known defects therein or in any fixtures or equipment, or of any known emergency in SAMTEC or the Premises.
16. Tenant shall not use the Premises or permit the Premises to be used for photographic or multigraph reproductions, except in connection with its own business and not as a service for others without Landlord's prior written permission.

17. No animals or birds shall be brought or kept in or about SAMTEC or the Premises, with the exception of authorized service animals permitted by state law.
18. No awnings, draperies, shutters or other interior or exterior window coverings that are visible from the exterior of the Premises may be installed by Tenant without Landlord's prior written consent.
19. Tenant shall not place, install or operate within the Premises or any other part of SAMTEC any engine, stove, or machinery, or conduct mechanical operations therein, without the written consent of Landlord.
20. No portion of SAMTEC or the Premises shall at any time be used or occupied as sleeping or lodging quarters.
21. Tenant shall at all times keep the Premises neat and orderly.
22. The toilet rooms, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever shall be thrown therein. The expenses of any breakage, stoppage or damage, resulting from the violation of this rule shall be borne by the Tenant who (or whose employees or invitees) shall have caused such damage.
23. Tenant agrees to place all indoor potted plants requiring water within a container capable of collecting any water overflow, such containers to be approved and/or supplied by Landlord, at Tenant's sole expense. Tenant agrees to use caution so that indoor plants do not damage or soil the Premises.
24. Tenant shall not park (and shall ensure that Tenant's employees, agents, and invitees do not park) in any reserved parking space. Any vehicle improperly parked, or parked in any unauthorized parking area in SAMTEC, shall be towed at the vehicle owner's expense and without further or additional notice.
25. Persons using covered parking (if any) do so at their own risk. Landlord specifically disclaims all liability, except when caused solely by its gross negligence or willful misconduct, for any personal injury incurred by users of the parking lot, their agents, employees, family, friends, guests or invitees, or as a result of damage to, theft of, or destruction of any vehicle or any contents thereof, as a result of the operation or parking of vehicles in the parking lot.
26. Smoking is prohibited in SAMTEC and the Premises except in specifically marked areas designated by Landlord.
27. "Intentionally left Blank".



BUNDLE ID: m7E7Ba9MBp

CREATED: 2023-09-18 17:21:29 UTC

CREATED BY:
Stephanie Allred

SIGNER:

Joshua Kauffman
Phone:
Email: josh@speedcell.com

ADDITIONAL SIGNERS:

Jon Paladini
Thomas Murphy
Lisa Cole

AUTHENTICATIONS

IP VERIFICATION / GEOLOCATION

2023-09-22 17:03:15 UTC
IP Address: 72.196.46.124
PC / Mac OS X 10.15.7 / Chrome 112.0.0



LOCATION: 33.3462°, -111.8153° / Gilbert, AZ, 85233, United States

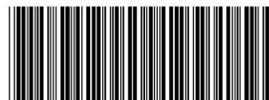
DOCUMENTS

Document
ATAG_Inc._Lease.pdf
48 Pages

SIGNATURE
Joshua Kauffman



BLUEINK ID



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2023-09-22 | 17:03:46


SIGNATURE

Document 1
Page 34



2023-09-22 | 17:03:50

Document Submitted by
Joshua Kauffman



BUNDLE ID: m7E7Ba9MBp

CREATED: 2023-09-18 17:26:46 UTC

CREATED BY:
Stephanie Allred

SIGNER:

Jon Paladini
Phone:
Email: jon@piercecoleman.com

ADDITIONAL SIGNERS:

Joshua Kauffman
Thomas Murphy
Lisa Cole

AUTHENTICATIONS

IP VERIFICATION / GEOLOCATION

2023-09-25 17:14:06 UTC
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PC / Windows 10 / Edge 117.0.2045



LOCATION: 37.751°, -97.822° / United States

DOCUMENTS

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ATAG_Inc._Lease.pdf
48 Pages

SIGNATURE

Jon Paladini

Jon M. Paladini



BLUEINK ID



Y8BPBNZRJIS



DATE | TIME | EVENT INFORMATION

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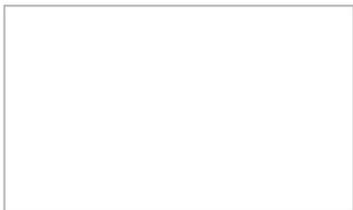
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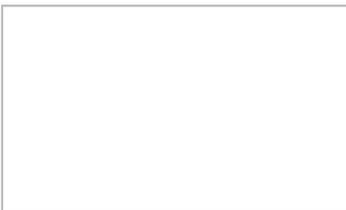
Document 1
Page 34

Jon M. Paladini

2023-09-25 | 17:14:20



Document Submitted by
Jon Paladini





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CREATED: 2023-09-18 17:26:57 UTC

CREATED BY:
Stephanie Allred

SIGNER:

Thomas Murphy
Phone:
Email: tmurphy@sahuaritaaz.gov

ADDITIONAL SIGNERS:

Joshua Kauffman
Jon Paladini
Lisa Cole

AUTHENTICATIONS

IP VERIFICATION / GEOLOCATION

2023-09-26 05:12:15 UTC
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DOCUMENTS



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ATAG_Inc._Lease.pdf
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SIGNATURE

Thomas Murphy



BLUEINK ID



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SIGNATURE

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Page 34



2023-09-26 | 05:13:03

Document Submitted by
Thomas Murphy



BUNDLE ID: m7E7Ba9MBp

CREATED: 2023-09-18 17:27:22 UTC

CREATED BY:
Stephanie Allred

SIGNER:

Lisa Cole
Phone:
Email: lcole@sahuaritaaz.gov

ADDITIONAL SIGNERS:

Joshua Kauffman
Jon Paladini
Thomas Murphy

AUTHENTICATIONS

IP VERIFICATION / GEOLOCATION

2023-09-26 06:15:17 UTC
IP Address: 70.162.25.68
PC / Mac OS X 10.15.7 / Safari 16.6



LOCATION: 31.8466°, -111.0605° / Green Valley, AZ, 85614, United States

DOCUMENTS

Document
ATAG_Inc._Lease.pdf
48 Pages

SIGNATURE

Lisa Cole



BLUEINK ID



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BLEINK

CERTIFICATE OF EVIDENCE





DATE | TIME | EVENT INFORMATION

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2023-09-26 | 06:15:42



SIGNATURE

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Page 34



2023-09-26 | 06:15:49



SIGNATURE

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Page 34



2023-09-26 | 06:16:13

Document Submitted by
Lisa Cole