

**GUILFORD COUNTY CONTRACT NO. 114592-01/17-236 – AMENDMENT 1
HARRY DONALD JOHNSON JR AND WIFE, SUSAN L. JOHNSON (LANDLORD)**

STATE OF NORTH CAROLINA
COUNTY OF GUILFORD

LEASE AGREEMENT

THIS LEASE AGREEMENT EXTENSION, is hereby made, entered into and effective as of the 1st day of March 2017, by and between **Harry Donald Johnson, Jr. and wife, Susan L. Johnson of Greensboro, NC**, hereinafter called the "**Landlord**," and **Guilford County**, hereinafter called the "**Tenant**," and also collectively referred to as the "Parties."

WITNESSETH:

WHEREAS, the Parties entered into an AGREEMENT on February 1, 2017 whereby Landlord and Tenant have an existing lease specifying services, terms and conditions under which the Landlord provided specified space to the Tenant at 6342-C Burnt Poplar Road, Greensboro, NC, approximately 13,500 square feet of floor space, including the mezzanine in the building

WHEREAS, the initial Agreement may be revised or amended with a written Contract Amendment executed by both Parties; and,

WHEREAS, the Parties now wish to amend the terms of the Contract by extending the Contract period from March 1, 2017, through February 28, 2020.

NOW, THEREFORE, the Parties mutually agree that, as of the effective date of this Amendment, the following changes are hereby made to the initial Contract as follows:

The Tenant desires to continue this lease term for an additional period of three (3) years and the Landlord accepts this extension of the lease under the current terms and conditions.

TO HAVE AND TO HOLD said premises and privileges and appurtenances there unto belonging to the Tenant, its successors and assigns, upon the following terms and conditions:

1. **TERM.** This Lease shall be for a term of three (3) years. Rent shall begin on March 1, 2017, and unless sooner terminated as hereinafter provided, shall continue until midnight on February 28, 2020.
2. **RENT.** As rental for said premises, the Tenant covenants and agrees to pay the Landlord for the period March 1, 2017 through February 28, 2020, the sum of Five Thousand Five Hundred and 00/100 Dollars (\$5,500.00) per month. All rent shall be due and payable on the first day of each month, in advance. If rent or any other payment due hereunder from Tenant to Landlord remains unpaid ten (10) days after said payment is due, the amount of such unpaid rent or other payment shall be increased by a late charge to be paid to Landlord by Tenant in an amount equal to five percent (5%) of the amount of the delinquent rent or other payment. The maximum financial exposure to the TENANT for all goods and/or services hereunder is not to exceed \$198,000.00, and in any event payment will be made only from budgeted funds in accordance with N.C.G.S. Chapter §159.

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3. **SECURITY DEPOSIT.** Tenant previously paid a security deposit with Landlord in the sum of Five Thousand Five Hundred and 00/100 Dollars (\$5,500.00) which sum is still being held by Landlord, without obligation of interest, as security for the performance of Tenant's covenants and obligations under this lease, it being expressly understood and agreed that such deposit is not an advance rental deposit or a measure of Landlord's damages in case of Tenant's default. Upon the occurrence of any event of default by Tenant, Landlord may, from time to time, without prejudice to any other remedy provided herein or provided by law, use such fund to the extent necessary to make good any arrears of rent and any other damage, injury, expense or liability caused by such event of default and Tenant shall pay to Landlord on demand the amount so applied in order to restore the security deposit to its original amount. Upon termination of this lease, if Tenant is not then in default, any remaining balance of such deposit shall be returned by Landlord to Tenant within ten (10) days of request
4. **USE.** Premises shall be used for an emergency vehicle service and such office assembly, storage, distribution and manufacturing activities as are allowed under existing zoning and recorded covenants. Tenant shall not receive, store or otherwise handle any product, material, merchandise that is highly flammable (except for gas and oil used within Tenant's vehicles), toxic or hazardous within the premises.
5. **ASSIGNMENT OR SUBLEASE.** Tenant is hereby granted the right to sublease or assign any part or all of the premises to any subtenants or assignees who conform to zoning or recorded covenants and with the prior written consent of the Landlord which shall not be unreasonably withheld; provided, however, Tenant shall not be released in any fashion from all covenants of this Lease.
6. **TAXES AND OTHER CHARGES.** During the term of this Lease, the Landlord shall pay all ad valorem taxes and municipal assessments assessed against said premises, and the Tenant shall pay all taxes and assessments against its personal property within the premises and all taxes and assessments, if any, imposed by lawful authority as a result of its use and occupancy of the premises, including leasehold improvements. The Tenant shall pay all charges for electrical current, gas, pro rata, storm water, and other public utilities. There is one water meter for the building of which the Premises are apart. Tenant shall pay only 1/3 water charges on the one meter.
7. **INSURANCE.** Landlord covenants and agrees to maintain standard fire and extended coverage insurance covering the building on the premises in an amount not less than eighty percent (80%) of the replacement cost thereof. Tenant agrees that it shall bear the full risk of any loss or damage to its property located on, within or in the vicinity of the premises and shall maintain fire and extended coverage thereon at its sole cost and expense. Landlord shall not be liable in any manner for any loss or damage to Tenant's property located within the premises, it being understood that such loss or damage is Tenant's risk.

The TENANT shall have at all times, in force and effect, maintain insurance coverage within the City/County self-funded funding program a minimum of:

- a. Appropriate Statutory Workers' Compensation;
- b. Aggregate Liability (five million dollars (\$5,000,000.00) combined single limit);

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The TENANT shall provide to the LANDLORD at inception of this Agreement, and annually thereafter notice that the COUNTY is self-insured and has enforce the above minimum limits required.

8. **DAMAGE OR DESTRUCTION.** If the building in which the leased space is located shall be damaged or destroyed by fire or other casualty, the Landlord shall, except as provided below as soon as practical, repair and restore the same to at least as good condition as before such damage or destruction occurred. Provided, however, if the building is damaged to the extent that the Landlord is unable to continue to provide at least seventy-five percent (75%) of the leased square footage for the purposes of the Tenant, either party may terminate this Lease by giving written notice of such termination to the other party within thirty (30) days after the occurrence of such damage or destruction. In the event of such termination, the Tenant's liability for payment of further rent shall cease as of the date of such destruction or damage or the date of receipt of notice of such termination, whichever shall later occur, and it shall be entitled to a refund of any rent previously paid proportionate to the remainder of the month following such date. If Landlord or Tenant shall not terminate this Lease as herein fore provided, and if seventy-five percent (75%) or less of the leased square footage suitable for the purpose of Tenant is available after such destruction, Tenant may use such available square footage with rent payable hereunder equal to an amount based upon the remaining tenable premises in relation to the total square footage of the premises.
9. **DEFAULT IN PAYMENT OR RENT: BREACH OF OTHER COVENANTS.** In the event of any default by the Tenant in the payment of rent, which default shall not be cured within ten (10) days, or the performance of any other agreement, covenant or obligation under this Lease, which shall not be cured within twenty (20) days unless Tenant commences to remedy such default within said twenty (20) day period and proceeds with due diligence; after written notice thereof, either with or without process of law, Landlord may re-enter and expel or remove Tenant, or any person or persons occupying the same, in addition to any other remedies which may then be provided by law or contained in this Lease. Landlord shall have the right, upon such re-entry, to remove from the leased premises all, or any, personal property or trade fixtures of Tenant located therein, and may place the same in storage in a public warehouse at the expense or risk of the owner or owners thereof. Landlord may exercise said right of re-entry or taking possession of the leased premises, with or without terminating this Lease. No such re-entry or taking possession of said premises by Landlord shall be construed as an election on his part to terminate this Lease unless written notice of such election is given by Landlord to Tenant or unless such termination is decreed by a court of competent jurisdiction. Landlord may re-let said premises, or any part thereof, upon re-entry for all or any part of the remainder of the term of this Lease at such rental and upon such terms and conditions as Landlord may, with reasonable diligence, be able to secure. Rentals collected by Landlord from such re-letting said premises shall be applied first to the expenses of re-letting, and next to the payment of the rental and any other indebtedness due from Tenant to Landlord hereunder. Should the rentals collected from such re-letting be insufficient to cover the foregoing items, Tenant shall pay the deficiency to Landlord.

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If the rent or any other sums due to Landlord by Tenant hereunder is collected by or through an attorney at law, Tenant agrees to pay Landlord's actual and reasonable attorneys' fees incurred with respect thereto not in excess of fifteen percent (15%) of the amount collected. If the laws of the State of North Carolina in effect at the time of such collection limit the amount so payable as attorneys' fees, then the maximum percentage (not in excess of fifteen percent (15%) of the amount so collected) allowed by such laws shall be applicable.

10. **REPAIRS.** The Landlord shall keep and maintain the exterior walls and roof of the building (excluding windows and other glass and all exterior doors), located upon the premises in good state of repair and condition; provided, that if the Landlord fails to commence any repairs necessary to maintain the exterior walls and roof in such condition, within ten (10) days after written notice from the Tenant to do so, and to have the repairs completed within a reasonable time, the Tenant may have such repairs made and charge the expense thereof against the Landlord, deducting the same from rentals due or to become due at its option. Landlord agrees to indemnify and hold the Tenant harmless for any loss to property suffered as a result of Landlord's negligence to keep the premises in good repair as provided in this paragraph. Tenant shall maintain the air conditioning and heating equipment; Landlord, if said heating and air conditioning equipment is properly maintained, shall be responsible for replacement of fan motors, compressors, heat exchangers and the housing of said equipment, if necessary. Landlord warrants that the glass doors, plumbing, electrical, and heating and air conditioning systems are in good operable condition on the initial date of occupancy by Tenant. All other parts and portions of the premises including plumbing, electrical systems, plate glass, exterior doors, pest control shall be kept and maintained in good condition and repair by the Tenant.
11. **STATUTES AND ORDINANCES.** The Tenant shall at all times fully and promptly comply with all applicable laws, ordinances, regulations and other order of any public authority.
12. **ALTERATIONS, IMPROVEMENTS, AND RETURN OF PREMISES.** The Tenant, at its own expense, may make alterations, additions and improvements to the premises; provided, however, that all such alterations additions and improvements of a material or structural nature shall be made only with the prior written consent of the Landlord. All alterations, additions and improvements to the premises, paid for by Tenant, may be removed by Tenant upon termination of this Lease, but Tenant shall restore the premises to their original condition if such alterations, additions and improvements are so removed at the Tenant's expense. The Tenant shall have the right to remove all fixtures, equipment and machinery installed upon the premises by it, provided that removal can be effected without materially damaging or affecting the building structurally. Any damage caused by such removal shall be repaired by the Tenant at its expense. The Tenant agrees that it will return the leased premises at the end of the term or upon any earlier termination of this Lease, in as good order and condition, fire or other casualty, wear and tear excepted, as the same are at the time of commencement of the Lease.

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"Superfund" or "Superlien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating or relating to or imposing liability or standards of conduct concerning any Hazardous Material, but only to the extent caused by, or within the control of Tenant. Otherwise, Landlord agrees to indemnify and hold Tenant harmless from all of the foregoing that may have occurred prior to the commencement of the Lease. The provisions of and undertakings and indemnifications set out in this paragraph shall survive the termination of this Lease. Landlord represents, to the best of its knowledge, that the premises do not contain hazardous materials.

For purposes of this Lease, "Hazardous Material" means and includes any hazardous, toxic or dangerous waste, substance or material defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation and Liability Act, any so-called "Superfund" or "Superlien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, or relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or any time hereafter in effect.

18. **SIGNS.** All signs are to be approved by the Landlord whose decision thereto shall be final. The approval of the Landlord shall not be unreasonably withheld.
19. **HOLDING OVER.** If Landlord allows the Tenant to hold over or remain in the possession or occupancy of the premises hereby leased after the expiration of the term of this Lease, without any written Lease of said premises being actually made and entered into between Landlord and Tenant, such holding over or continued possession or occupancy shall not be deemed or held to operate as any renewal or extension of this Lease, and shall if rent is paid by Tenant and accepted by Landlord for or during any period of time it so holds over or remains in possession of occupancy, only create a tenancy from month to month at a negotiable rental rate not to exceed six thousand five hundred dollars (\$6,500.00/month), which may at any time be terminated by either Landlord or Tenant giving to the other ninety (90) days' notice of such intention to terminate the same. The Landlord may refuse, however, to allow the Tenant to hold over upon the expiration of the term of this Lease.
20. **INSOLVENCY OR BANKRUPTCY OF TENANT.** If at any time during the term of this Lease, the Tenant shall be adjudged bankrupt or insolvent by a federal or state court of competent jurisdiction, at the option of the Landlord, such adjudication shall terminate and cancel this Lease without any further action on the part of either party hereto, and the Landlord may at once re-enter and take possession of the premises.
21. **SUCCESSORS AND ASSIGNS.** This Lease and all the covenants and provisions thereof shall inure to the benefit of and also be binding upon the successors, heirs, and assigns of the parties hereto. Each provision hereof shall be deemed both a covenant and a condition and shall run with the land.

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22. SPECIAL PROVISIONS.

- a. Existing air compressor and airlines to remain for Tenants use.
- b. Metal Halide lights in Warehouse switched to LED.
- c. All debris trash and weeds to be removed by Landlord along the north property line. Tenant to maintain the same after initial work by Landlord. Landlord to maintain rest of landscaped areas.
- d. From the northern property line out approximately 80' as shown outlines and on Exhibit A to be for the exclusive use of Tenant for its automobiles and emergency vehicles.
- e. For the period February 1, 2017 through January 31, 2018 Tenant will grant Landlord rent free the use of one office, the location of which shall be mutually agreed to by Landlord and Tenant.

23. COMPLETE AGREEMENT. This written Lease contains the complete agreement of parties with reference to the leasing of said property. No waiver of any breach of contract herein shall be construed as a waiver of the covenant itself or any subsequent breach thereof.

24. Iran Divestment Act of 2015. Whereas, N.C.G.S. §147-86.59 requires that a State agency or political subdivision of the State must require persons attempting to contract therewith, including contract renewals or assumptions, to certify that the persons or the assignees are not identified on the list created by State Treasurer pursuant to N.C.G.S. §147-86.58. Effective as of the date of this Contract, and in accordance with N.C.G.S. Chapter 147, Article 6E entitled "Iran Divestment Act," each Party hereby certifies that it is not identified on the Final Divestment List created by the State Treasurer, which list of persons the Treasurer has determined engage in investment activities in Iran, including any subcontractors of either Party.

All other provisions of the initial Contract, as amended, are hereby ratified and shall continue in full force and effect without change, unless and until revised upon mutual written Agreement of the Parties, or terminated as provided herein.

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WITNESS the following signatures and seals all pursuant to authority duly granted, effective as of the day and year first above written.

GUILFORD COUNTY

ATTEST:

Marty K. Lawing Date
Guilford County Manager

Robin B. Keller Date
Guilford County Clerk to Board

(COUNTY SEAL)

HARRY DONALD JOHNSON JR

WITNESS:

Date

Date

SUSAN L. JOHNSON

WITNESS:

Date

Date

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

N. Reid Baker III Date
Guilford County Finance Director