

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**LEASE**

**THE STATE OF TEXAS**

**§**

**KNOW ALL MEN BY THESE PRESENTS:**

**COUNTY OF CHEROKEE**

**§**

**§**

THIS AGREEMENT OF LEASE is made between the CITY OF JACKSONVILLE, TEXAS, referred to herein as "Landlord", and AMERICAN CUSTOM COIL, INC. referred to herein as "Tenant".

**WITNESSETH:**

Landlord hereby leases to Tenant and Tenant hereby takes from Landlord the following described premises, situated in Cherokee County, Texas, and being more particularly described as follows:

Lot No. 2 of the Custom Coil Subdivision located in Block No. 7 of the Thomas Quevado Survey, Abstract No. 44, City of Jacksonville, Cherokee County Texas and as depicted on plat attached hereto as Exhibit "A".

For the primary term of twenty-five (25) years effective beginning March 3, 2023; upon the following terms, covenants and conditions:

**RENT:** Beginning the effective date of this lease, Tenant agrees to pay all rent due under this Lease on an annual basis in advance for each and every year, payable at Jacksonville, Cherokee County, Texas, for the full term hereof as same shall vary and fall due to Landlord. Rent is due March 3 of each year this lease is in effect.

Beginning the effective date of this lease and continuing annually on March 3 of each year thereafter until a final primary term rent payment is made, which shall be due March 3, 2047, Tenant agrees to pay the sum of \$450.00 per year payable at the City of Jacksonville City Hall.

**SECONDARY TERM:** This lease shall terminate at the end of the primary term, such date being March 2, 2048, unless Tenant provides notice to Landlord one year in advance of the expiration of the primary term of the lease that Tenant desires to extend this lease into the secondary term. If Tenant provides this notice to Landlord, Tenant shall be entitled to one secondary term of this lease. The secondary term shall be for a period of five years, beginning March 3, 2048 and continuing until March 2, 2053. Notice shall be provided as set forth in paragraph 15<sup>th</sup> herein.

**RENT DURING SECONDARY TERM:** If Tenant exercises its option to extend this lease into the secondary term, beginning March 3, 2048 and continuing until March 2, 2053, the yearly rent may vary each year of this Lease and will be adjusted as set forth in this section to reflect increases in the following Index: the "Land Non-Homesite Value" of the Leased Premises according to the Cherokee County Appraisal District ("CCAD"). Adjustments to the yearly rent shall be determined by multiplying CCAD's then most recent "Land Non-Homesite value" of the Leased Premises by two percent (2.000%). If the product of this calculation is greater than the most recent yearly rent assessed herein, Tenant shall pay the greater amount as the yearly rent until the time of the next annual rent adjustment. If the product is less than or equal to the most recent annual rent assessed hereunder, Tenant shall pay an amount equal to the most recent yearly rent until the time of the next yearly adjustment to the rent. For example, if CCAD reflects the Land Non-Homestead value for the Premises to be \$114,400.00 for a given year, the yearly rent would be  $\$114,400.00 \times .02 = \$2,288.00$  for a given year. If the Index is discontinued during this Lease's secondary term, the adjustments called for in this section shall be made using another similar index to be chosen by Landlord in its sole discretion.

1<sup>st</sup>. **USAGE:** The leased premises shall be used and occupied only for the purpose of manufacturing and related industrial uses.

2<sup>nd</sup>. **ACCEPTANCE OF PREMISES:** Tenant has examined and accepts the premises in their present condition as suitable for the purpose for which the same are leased.

3<sup>rd</sup>. **COMPLIANCE WITH LAW:** Tenant shall comply with and fulfill any and all ordinances, statutes and legal regulations of the City of Jacksonville and any other governmental agency applicable to the subject premises and shall comply with and fulfill any and all orders and requirements lawfully imposed by any department or officer of the City of Jacksonville or any other governmental agency in connection with the correction, prevention or abatement of any violation of law occurring in connection with Tenant's use of the subject premises, all such compliances or corrective action being at Tenant's expense.

4<sup>th</sup>. **ASSIGNMENT:** If not in default of any of the terms, conditions and covenants contained in this lease, the Tenant may, without the consent of Landlord, assign this lease. The Tenant shall remain principal obligor to the Landlord under all the terms, conditions, covenants and obligations of this lease; and, the acceptance of an assignment of this lease by any firm, person or corporation shall be construed as a promise on the part of such assignee to be bound by and to perform all of the terms, conditions and covenants by which Tenant herein is bound. Tenant shall notify Landlord in writing of any such assignment prior to the effective date of the assignment. No such assignment shall be construed to constitute a novation. In the event of default by Tenant while the demised premises are assigned, Landlord, in addition to any other remedies provided herein (or provided by law), may, at Landlord's option, collect directly from such assignee all rents becoming due to Tenant under such assignment and Landlord may apply such rent against any sums due to Landlord by Tenant hereunder. No direct collection by Landlord from any such assignee shall release Tenant from the further performance of its obligations hereunder.

5<sup>th</sup>. FIRE AND CASUALTY DAMAGE: No fire or other casualty damage shall eliminate in any manner the rental obligation on the part of Tenant to Landlord on this ground lease.

6<sup>th</sup>. CONDEMNATION: If, during the term of this lease or any renewal term thereof, all or a substantial part of the leased premises should be taken for any public or quasi-public use by right of eminent domain or should be sold to the condemning authority under threat of condemnation, this lease shall terminate and the rent shall be abated during the unexpired portion of this lease, effective when the physical taking of said premises shall occur.

7<sup>th</sup>. LESSEE RESPONSIBLE FOR INVESTIGATION, "As Is. Where Is.". Lessor makes no warranty as to the suitability of the Premises for the use to which Lessee wishes to put the Premises nor any other warranty. Lessee acknowledges it has had an opportunity to inspect the Premises and do its own investigation of the status of the Premises with regard to any Historic designation, flood plain, or drainageway location or other factor which would affect the use of the Premises or the regulations applicable to the Premises. Lessee accepts the leased Premises "As Is. Where Is.

8<sup>th</sup>. WAIVER: No waiver by the parties hereto of any default or breach of any term, covenant, condition, agreement, provision or stipulation herein contained shall be treated as waiver of any subsequent default or breach of the same or any other term, condition, covenant, agreement, provision or stipulation hereof.

9<sup>th</sup>. SIGNS: Tenant is hereby granted the privilege of erecting signs in good taste on the facade of walls of the building only, subject to all applicable laws, deed restrictions and regulations. No signs or other objects shall be erected which are attached to the roof of the building and no signs shall be attached to the building at right angles, suspended by guy wires, but shall be attached flush to the building in a safe and secure manner, not on canopy. All such signs erected shall advertise the Tenant's business only and no revenue producing advertising shall be erected on the leased premises. Tenant shall remove all signs at the termination of this lease, at Tenant's sole cost, risk and expense and shall in a workmanlike manner properly close any holes caused by the removal of Tenant's signs. All signs must comply with the City of Jacksonville Sign Ordinance as it now reads and as may be amended.

10<sup>th</sup>. HAZARDOUS MATERIALS: Tenant at its own expense will comply, and will cause its officers, employees, agents, and invitees to comply, with all applicable laws, ordinances, and governing rules and regulations concerning Hazardous Materials laws. Tenant at its sole discretion must comply with all Hazardous Materials laws in connection with Tenant's use of the Premises. Hazardous Materials means any substance, material or waste that is or becomes regulated by any governmental agency, the State of Texas or the Federal Government, including, but not limited to any material or substances that is 1) designated a "hazardous substance" pursuant to the Clean Water Act; 2) defined as a "hazardous substance" pursuant the Comprehensive Environmental Response, Compensation, and Liability Act; 3) defined as a "hazardous waste" pursuant to the Resource Conservation and Recovery Act; 4) petroleum; 5) asbestos; and 6) polychlorinated biphenyls. Tenant must promptly supply Landlord with copies of all notices, correspondence and submissions made by Tenant to United States Environmental

Agency, the United States Occupational Safety and Health Administration, the Texas Commission on Environmental Quality or any other local, state or federal authority that regulates environmental matters or hazardous materials pursuant to hazardous materials laws. Tenant must promptly notify Landlord in advance of any scheduled meeting between Tenant and any of the agencies specified above. Tenant must promptly notify Landlord as to any liens threatened or attached against the premises pursuant to any environmental law. If an environmental lien is filed against the premises, Tenant must, within thirty (30) days from the date on which the lien is placed against the premises either 1) pay the claim and remove the lien from the premises; or 2) furnish either a) a bond satisfactory to Landlord in the amount of the claim on which the lien is based; or b) other security satisfactory the Landlord in an amount sufficient to discharge the claim on which the lien is based.

11<sup>th</sup>. UTILITY SERVICES: The cost of all utility services, including but not limited to gas, water and electricity, shall be paid by Tenant. Landlord shall not be required to pay for any services, upkeep or supplies used in connection with the herein demised premises.

12<sup>th</sup>. DEFAULT BY TENANT: The following events shall be deemed to be events of default by Tenant under this lease:

- 1) Tenant shall fail to pay any installment of the rent hereby reserved and such failure shall continue for a period of then (10) days.
- 2) Tenant shall fail to comply with any term, provision or covenant of this lease, other than the payment of rent and shall not cure such failure within thirty (30) days after written notice thereof of Tenant, or if such failure shall be of such a nature that the same cannot be completely cured within the said thirty (30) days and Tenant shall not have commenced to cure such failure within such thirty (30) day period and shall not thereafter with reasonable diligence and good faith proceed to cure such failure.
- 3) Tenant shall become insolvent, or shall make a transfer in fraud of creditors or shall make an assignment for the benefit of creditors.
- 4) Tenant shall file 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 Tenant shall be adjudged bankrupt or insolvent in proceedings filed against Tenant thereunder.
- 5) A receiver or trustee shall be appointed for all or substantially all of the assets of Tenant.
- 6) Tenant shall become more than thirty (30) days delinquent in its water bill to the City of Jacksonville.

Upon the occurrence of any of such events of default, Landlord shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever;

A. Terminate this lease, in which event Tenant shall immediately surrender the premises to Landlord and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the leased premises and expel or remove Tenant and any other person who may be occupying said premises or any part thereof, by force if necessary, without being liable for prosecution or any claim of damages therefore; and Tenant agrees to pay to Landlord on demand the amount of all loss and damage which Landlord may suffer by reason of such termination, whether through inability to relet the premises on satisfactory terms or otherwise.

B. Enter upon and take possession of the leased premises and expel or remove Tenant and any other person who may be occupying said premises or any part thereof, by force if necessary, without being liable for prosecution or any claim for damages therefore and relet the premises and receive the rent therefore; and Tenant agrees to pay to Landlord on demand any deficiency that may arise by reason of such reletting.

C. Enter upon the leased premises by force if necessary without being liable for prosecution of any claim for damages therefore, and do whatever Tenant is obligated to do under the terms of this lease and Tenant agrees to reimburse Landlord on demand for any expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this lease and Tenant further agrees that Landlord shall not be liable for any damages resulting to the Tenant from such action, whether caused by the negligence of Landlord or otherwise.

Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall pursuit of any remedy herein constitute a forfeiture or waiver of any rent due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions and covenants herein contained. Failure by Landlord to enforce one or more of the remedies herein provided upon an event of default, shall not be deemed or construed to constitute a waiver of such default, or of any other violation or breach of any of the terms, provisions and covenants herein contained

13<sup>th</sup>. LANDLORD'S LIEN: In addition to the statutory landlord's lien, Landlord shall have at all times a valid contractual lien for all rentals and other sums of money becoming due hereunder from Tenant, upon all goods, wares, equipment, fixtures, furniture and other personal property of Tenant situated on the above described premises and such property shall not be removed therefrom without the consent of Landlord until all arrearages in rent as well as any and all other sums of money then due to Landlord hereunder shall first have been paid and discharged. Upon the occurrence of an event of default by Tenant, Landlord may, in addition to any other remedies provided herein or by law, enter upon the leased premises and take possession of any and all goods, wares, equipment, fixtures, furniture and other personal property of Tenant situated on the premises without liability for trespass or conversion and sell the same with or without notice at public or private sale with or without having such property at the sale, at which Landlord or its assigns may purchase and apply the proceeds thereof, less any and all expenses connected with the taking of possession and sale of the property, as a credit against any sums due by Tenant to

Landlord. Any surplus shall be paid to Tenant and Tenant agrees to pay any deficiency forthwith.

14<sup>th</sup>. ATTORNEYS FEES: If, on account of any breach or default by Landlord or Tenant of their obligations to any of the parties hereto, under the terms, covenants and conditions of this lease, it shall become necessary for any of the parties hereto to employ an attorney to enforce or defend any of their rights or remedies hereunder and should such party prevail, he shall be entitled to any reasonable attorney's fees incurred in such connection.

15<sup>th</sup>. NOTICES AND LEGAL ADDRESSES: Each provision of this instrument or any applicable governmental laws, regulations, ordinances and any other requirements with reference to the mailing, sending or delivery or any notice or with reference to the making of any payment by Tenant to Landlord shall be considered complied with when a notice or document required or permitted to be delivered hereunder shall be deemed to be delivered whether actually received or not when deposited in the United States mail, postage prepaid, registered mail, return receipt requested, addressed to the parties hereto at their respective addresses set out opposite their names below, or at such other address as they have theretofore specified by written notice delivered in accordance herewith:

LANDLORD: 315 S. Ragsdale St.  
Jacksonville, TX 75766

TENANT: 101 Anvil Street  
Jacksonville, TX 75766

16<sup>th</sup>. SUCCESSION AND INUREMENT: All of the terms, covenants and conditions contained in this lease shall apply to, inure to the benefit of and be binding upon the parties hereto and their respective successors in interest and legal representatives except as otherwise herein expressly provided. All of the rights, powers, privileges, immunities and duties of Landlord under this lease, including, but not limited to, any notices required or permitted to be delivered by Landlord to Tenant hereunder, may at Landlord's option, be exercised or performed by Landlord's agent or attorney.

17<sup>th</sup>. USE OF LANGUAGE: Words of any gender used in this lease shall be held and construed to include any other gender and words in the singular number shall be held to include the plural, unless the context otherwise requires.

18<sup>th</sup>. CAPTIONS OR HEADINGS: The original captions or notes appearing in this Agreement are inserted and included solely for convenience and shall never be considered or given any effect in construing this Agreement or any provision or provisions hereof, or in connection with the duties, obligations or liabilities of the respective parties hereto or in ascertaining intent, if any question of intent should arise.

19<sup>th</sup>. LANDLORD'S RIGHT OF ENTRY AND INSPECTION: Landlord and Landlord's Agents, Attorneys and Representatives shall have the right to enter and inspect the leased premises at any reasonable time for the purpose of ascertaining the condition of the leased premises, or to show the property for lease if the Tenant plans to vacate or has failed to execute a renewal or extension of this lease within the time limit required in Article 10. Landlord shall have the right to erect "For Lease" signs on the leased premises at any time after Tenant fails to exercise

renewal option contained herein (if any) or if Landlord is otherwise notified of Tenant's intent to vacate. All such signs by Landlord (or Landlord's Agent) shall be erected in good taste and shall not be placed on any glass.

20<sup>th</sup>. This lease does not preclude the Landlord from:

- a) Taking said property within the City limits of the City of Jacksonville at any time without the joinder of or consent of the Tenant.
- b) Exercising the right of eminent domain over the same for highway right-of-way purposes only.
- c) Taxing the leasehold estate and improvements situated thereon.
- d) From selling said land or any part thereof.
- e) From leasing for oil, gas and mineral purposes said land or any part thereof; however, the right of ingress and egress for the purpose of drilling for oil, gas and other minerals shall be limited to reasonable rules and regulations and should not interfere with the Tenant's use of said premises.

21<sup>st</sup>. Tenant will not pollute the air or discharge into the sanitary sewer system of the City of Jacksonville other than normal human usage of toilet facilities any substance or material which, in the opinion of the City's consulting engineers, would be detrimental to the City's sanitary sewer system. Any such substance or material shall either be disposed of otherwise than through the city's sanitary sewer system or be given such pretreatment as may be required by the City's consulting engineers. Tenant shall comply with all pollution laws of the State of Texas and the United States.

22<sup>nd</sup>. It is hereby further agreed for the benefit of any assignee, mortgagee, or deed of trust lien holder of the leasehold estate as security for an indebtedness of Tenant, as well as for Tenant's benefit that - provided Landlord be notified the name and address of any such assignee, mortgagee, lienholder, or purchaser of the leasehold estate through deed of trust sale or judicial foreclosure - that notice will be given by Landlord to such assignee, mortgagee, deed of trust lien holder, or any such purchaser of the leasehold estate of any and all defaults on the part of Tenant in carrying out the provisions of this lease, and of any and all failures on the part of Tenant to correct same within the time required by this lease; and that thereafter, said assignee, mortgagee, deed of trust lien holder or purchaser of the leasehold estate will have a reasonable time within which to remedy such default; - and it is further agreed that so long as payment of rentals and other provisions of this lease are complied with, and the Tenant is not otherwise in default, that the circumstances described in Paragraphs 12<sup>th</sup> (3), (4) and (5) with reference to insolvency, bankruptcy or receivership of Tenant shall not be cause for termination or forfeiture of this lease as to such assignee, mortgagee or purchaser of the leasehold estate.

23<sup>rd</sup>. TENANT SHALL INDEMNIFY, DEFEND, AND HOLD LANDLORD AND LIENHOLDER, AND THEIR RESPECTIVE AGENTS, HARMLESS FROM ANY INJURY (AND

ANY RESULTING OR RELATED CLAIM, ACTION, LOSS, LIABILITY, OR REASONABLE EXPENSE, INCLUDING ATTORNEY'S FEES AND OTHER FEES AND COURT AND OTHER COSTS) OCCURRING ON ANY PORTION OF THE PREMISES. THE INDEMNITY CONTAINED IN THIS PARAGRAPH (i) IS INDEPENDENT OF TENANT'S INSURANCE, (ii) WILL NOT BE LIMITED BY COMPARATIVE NEGLIGENCE STATUTES OR DAMAGES PAID UNDER THE WORKERS' COMPENSATION ACT OR SIMILAR EMPLOYEE BENEFIT ACTS, (iii) WILL SURVIVE THE END OF THE TERM, AND (iv) WILL APPLY EVEN IF AN INJURY IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF LANDLORD OR LANDLORD'S AGENTS BUT WILL NOT APPLY TO THE EXTENT AN INJURY IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD AND LIENHOLDER AND THEIR RESPECTIVE AGENTS.

24<sup>th</sup>. Tenant represents that Custom Coils Inc., the prior tenant used Trichloroethylene (TCE) between 1993 and 2009 on the leased property. However, Tenant further represents that neither Tenant nor Bois D'Arc International, Inc. uses TCE, nor will they do so in the future on the leased property. Accordingly, Landlord agrees that Landlord will not seek recovery from Landlord or Bois D'Arc International, Inc. for contamination related to the prior tenant's use of TCE. Landlord further agrees that if Landlord causes the soil on the leased property to be tested for the presence of possible contaminants, Landlord will disclose the results of any such testing to Tenant.

This lease is effective the 3rd day of March, 2023.


LANDLORD:

CITY OF JACKSONVILLE

By:

  
\_\_\_\_\_  
Randy Gorham, Mayor

ATTEST:

  
\_\_\_\_\_  
Greg Lowe, City Secretary

STATE OF TEXAS

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COUNTY OF CHEROKEE

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Before me, a Notary Public in and for the State of Texas, on this day personally appeared Randy Gorham, Mayor of the City of Jacksonville, Texas, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said City of Jacksonville, Texas, a Texas Municipal Corporation, and that he executed the same as the act of such corporation, for the purposes and consideration therein stated.

GIVEN UNDER MY HAND AND SEAL of office on May 10, 2023.



Dianah Surber  
Notary Public, State of Texas  
My commission expires: July 28, 2024

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TENANT:

AMERICAN CUSTOM COIL, INC.

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

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

ATTEST:

\_\_\_\_\_

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

STATE OF TEXAS

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COUNTY OF CHEROKEE

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Before me, a Notary Public in and for the State of Texas, on this day personally appeared \_\_\_\_\_, \_\_\_\_\_ AMERICAN CUSTOM COIL, INC., a \_\_\_\_\_ Corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said AMERICAN CUSTOM COIL, INC., and that he executed the same as the act of such corporation, for the purposes and consideration therein stated.

GIVEN UNDER MY HAND AND SEAL of office on \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public, State of Texas  
My commission expires: \_\_\_\_\_