

GROUND LEASE AGREEMENT

This GROUND LEASE AGREEMENT ("Agreement") is made and entered into this ____ day of December, 2011, between _____ ("Tenant") and the City of Abilene, Kansas, a municipal corporation, (the "City") with respect to the facts and objectives set forth below.

RECITALS

- A. The City owns certain real property designated as the Abilene Municipal Airport ("Airport") for general aviation use by the public and recognized by the Federal Aviation Administration ("FAA") and the Kansas Department of Transportation ("KDOT") for such general aviation use.
- B. The City seeks to preserve the purpose of general aviation use of the Airport and provide for the prudent stewardship of taxpayer resources in the equitable and efficient administration of airport affairs.
- C. Tenant desires to lease ground at the Airport for the purposes of designing and constructing an approved structure for the storage of Aircraft.

NOW, THEREFORE, in accordance of the mutual promises and the agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree to the following terms and conditions:

SECTION ONE: TERM. This Agreement shall be for a period of fifteen (15) years commencing on the date set forth above, and shall automatically renew in five-year increments unless otherwise terminated by either party.

SECTION TWO: LEASE PAYMENT. The City shall require the payment of an annual Lease Payment, which shall be based on the actual square footage of developed structural space, as provided in the Comprehensive Fee Schedule of the City of Abilene, Kansas. All applicable fees charged under this Agreement shall be paid to the Community Development Department. T-Hangar Lease Rates shall be payable by the tenth (10th) day of each February, except when the tenth (10th) day of February falls on a weekend or holiday and then the Lease Payment shall be payable on the next business day. The City reserves the right to amend the Lease Payment once every five (5) years during the term of the Agreement.

If the term hereof commences on a day other than the first day of February, the City shall pro-rate the Lease Payment on a per day basis. Tenant agrees that City shall not invoice or otherwise notice Tenant of the due date of the Lease Payment. Said Lease Payment may be either hand-delivered to City Hall located at 419 N. Broadway Street in Abilene, Kansas, or mailed to City Hall as herein provided for other notices and communications. Such remittances shall be addressed to the Community Development Department. The City shall not be responsible for failure of delivery or otherwise.

SECTION THREE: PENALTIES. The City shall require the payment of applicable penalty charges when the Lease Payment is not paid to the City by the tenth (10th) day of February. Such penalty charges shall be inclusive of the monthly Lease Payment. The Penalty Charge for City-owned T-Hangar Lease Payments shall be equal to Twelve Percent (12%) of the Lease Payment and payable by the fifteenth (15th) day of February.

A Daily Penalty Charge equal to Five Dollars (\$5.00) per day shall be charged to any Tenant having an outstanding balance as of the fifteenth (15th) day of February. Such Daily Penalty Charge shall be charged until all Payments and Charges have been remitted to the City or the Lease Agreement has been terminated. Failure by any Tenants to remit payment to the City of all outstanding Lease Payments and Penalty Charges by the fifteenth (15th) day of February shall require the City Manager to terminate the applicable Lease Agreement as provided in Section Nine, herein.

All penalty charges shall be established by ordinance and published and maintained in the Comprehensive Fee Schedule of the City of Abilene, Kansas.

SECTION FOUR: SETOFF PROGRAM. The City Manager is hereby authorized to submit any Lease Payments or Penalty Charges owed to the City to the State Setoff Program, as provided in K.S.A. 75-6201 *et seq.*, for collection following the termination of the Lease Agreement.

SECTION FIVE: RIGHT TO CONSTRUCT. The City hereby grants to Tenant the right to erect and maintain a Hangar on an area at the Airport as herein provided. The Hangar must be constructed in accordance with the plans and specifications as submitted by Tenant to the Community Development Department of the City prior to the commencement of construction. Tenant shall be solely responsible to pay for all materials and work to erect the Hangar and connect any and all approaches necessary for accessing public runways and taxiways. Failure to pay for the cost of the Hangar so constructed shall violate the terms of this Agreement and shall be cause to terminate the Agreement by City.

SECTION SIX: BUILDING PERMIT. Tenant agrees to obtain a building permit from the Community Development Department and comply with all regulations and applicable code provisions as required. Tenant shall complete construction of the Hangar within one year of the Effective Date of this Agreement. The Community Development Department shall have the authority to approve extensions to the building permit as allowed by City Code. Failure to complete construction of the Hangar within one year of the Effective Date of this Agreement shall violate the terms of this Agreement and shall cause this Agreement to be terminated by City.

SECTION SEVEN: FLOODPLAIN. Tenant acknowledges that the Airport, including aforementioned Lot(s) is located within a designated floodplain and that the development of the Lot(s) is subject to applicable floodplain regulations of the City. The cost of complying with floodplain regulations shall be the sole cost of the Tenant.

SECTION EIGHT: UTILITIES. Tenant acknowledges that the City will not provide utility services of any kind to Lot(s) and that Tenant shall solely be responsible for any costs associated with extending utilities to Lot(s) and all applicable utility charges for such utility service.

SECTION NINE: FUEL. Per FAA Advisory Circular 150/5190-6, Tenants may assert their right to obtain their own fuel and transport it to the Airport to service their own Aircraft. Such fueling shall only be done by the Tenant or with their own employees and equipment and shall be done in conformance with reasonable airport rules, regulations, and standards. The Airport Manager agrees to make available, at the Airport and at a reasonable rate, an amount of fuel at a fuel grade sufficient to operate Aircraft used by Tenant.

SECTION TEN: LOCATION. The location of the developed space shall be as approved by the City Manager, or designee, and for purposes of this Agreement shall be designated as provided in Exhibit A, attached to this Agreement.

SECTION ELEVEN: HANGAR USE. The use of the Hangar must at all times conform to applicable regulations and policies of the City regarding the operation and management of the Airport.

SECTION TWELVE: TERMINATION. The Tenant may terminate this Agreement, at any time, by providing written notice to the City at least sixty (60) days prior to the effective date of such termination. Tenant will not be reimbursed any amount of the Lease Payment should Tenant elect to terminate Agreement.

The City may elect to terminate this Agreement if Tenant is in default of any of obligations herein, including but not limited to: the provisions of this Lease Agreement, applicable airport rules, regulations, or policies as adopted by the City. The City may also elect to terminate this Agreement prior to the end of the term, provided the City Commission adopts a resolution determining that a public interest exists justifying such termination.

Following such resolution determining a public interest in early termination, the City shall provide written notice within ninety (90) days of the termination's effective date ("Notice of Termination"). Within fourteen (14) days following such Notice of Termination, the Tenant and the City shall agree on an independent appraiser to prepare an appraisal of the market value of the Hangar. Copies of the market value appraisal shall be provided to both parties within thirty (30) days following the Notification of Termination.

The City shall also solicit sealed bids from qualified structure relocation contractors to relocate the applicable structure to an agreeable location on the Airport. Such bidding process shall be done in compliance with the City's Purchasing Policy and shall be publicly opened, confirmed and accepted by the City Commission. The City shall commence the bidding process within fourteen (14) days following the Notice of Termination.

The City shall remit payment to the Tenant for the lesser of either purchasing the Hangar based on the results of the market value prepared by the independent appraiser, or relocating it within sixty (60) days following of the Notice of Termination. Should the Tenant desire to relocate the Hangar and this option is not the lowest, the Tenant may elect to relocate the Hangar, however, any costs above the lowest option shall be borne entirely by the Tenant. The Tenant agrees to have the structure(s) removed within ninety (90) days following the Notice of Termination, or the City may remove the structure(s) without consequence and at a date and time of its choosing.

Should the City elect to terminate this Agreement due to a default of the Tenant of its obligations as herein provided, the Tenant shall have the right to remove the Hangar and contents from City property, provided that the removal shall be completed within ninety (90) days after of the Notice of Termination. Tenant shall be responsible at his own cost to pay for removal of the Hangar and to clear the ground of all obstructions placed thereon by him so as to leave the ground level and clean and free from all hazards.

Should Tenant fail to remove the Hangar within ninety (90) days of either providing Notice of Termination to the City or receipt by Tenant of Notice of Termination from City, the Hangar and its contents shall become the sole property of City.

If Tenant's Aircraft is so placed on an uncovered portion of the Airport, Tenant shall become obligated to pay the City with respect to such Aircraft, all storage rates, when applicable, on the Airport and all and all reasonable charges imposed and expenses incurred by the City to remove the contents of Hangar. In addition to the foregoing, the City shall have the right to sell or retain the Aircraft and other personal property; if sold, the City shall use such proceeds as it may choose, including as compensation for such costs as may have been incurred by City as a result of the termination of this Agreement.

SECTION THIRTEEN: NOTICES AND COMMUNICATIONS. All notices to the Tenant shall be in writing and shall be mailed to the Tenant at the address indicated below. If any such notice to the Tenant shall be returned by the United States Postal Service, notice shall also be given by posting the same on the T-Hangar door. Tenant agrees to notify the City of any changes in address or aircraft ownership within thirty (30) days of such change.

All notices hereunder to the Tenant shall be in writing and shall be addressed and mailed to:

The Tenant may be contacted by phone at the following phone numbers:

Home: () _____ - _____
Work: () _____ - _____
Cell: () _____ - _____

All notices hereunder to the City shall be in writing and shall be addressed and mailed to:

City of Abilene, Kansas
Attn: City Manager
PO Box 519
Abilene, KS 67410

SECTION FOURTEEN: ASSIGNMENT; TRANSFERRABILITY. No interest in this Agreement may be assigned by the Tenant. Tenant is expressly prohibited from subletting, licensing or permitting any other party or parties to occupy any portion of T-Hangar except as otherwise provided herein.

SECTION FIFTEEN: SEVERABILITY. If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with any federal, state, or local law, policy or regulation, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION SIXTEEN: INDEMNIFICATION. Tenant agrees to indemnify the City, its officer, employees and agents against and hold said parties harmless from any and all claims, demands, and liability which may be made or may arise as a consequence of Tenant's presence upon the Airport or the acts or omissions of the Tenant.

SECTION SEVENTEEN: ENTIRE AGREEMENT. This document shall constitute the entire Agreement between the undersigned Tenant and the City.

[REMAINDER OF PAGE LEFT BLANK]

NOW, THEREFORE, in consideration of the City of Abilene agreeing to the above mentioned conditions for the right to construct a Hangar, the City does give full and complete consent to the Tenant for the use of the aforementioned City property in accordance with the provisions of this Agreement, the ordinances and regulations of the City and any other applicable laws or regulations of the State of Kansas or the Federal Aviation Administration at any time after the effective date of this Agreement.

AGREED TO AND ACCEPTED BY THE PARTIES BELOW ON THE ____ DAY OF DECEMBER, 2011.

CITY OF ABILENE, KANSAS

TENANT

By: _____
David B. Dillner, City Manager

Signature

Print Name

ATTEST:

Penny Soukup, City Clerk