

GROUND LEASE

TERMS

Date: _____

Landlord: CITY OF COMMERCE

Landlord's Address:

1119 Alamo
Commerce, Texas 75428

Tenant: MARK KROTKY

Tenant's Address:

3284 FM 275 South
Cumby, Texas 75433

Description of Ground Space Leased (Premises)

Approximate square feet: being an area of 4,800 feet which is 408.87 feet off center line of the runway and as noted on Exhibit "A" for a total of 4,800 square feet. Center of building 33" 17' 32.4995" N 95 53' 52.4822 West

Rent (annual): \$336.00

Term: Thirty (30) years

Commencement Date: December 1, 2016

Termination Date: December 1, 2046

Use: For Aeronautical Activities only. Subject to any other terms and conditions hereof, the leased premises may be used by the TENANT for Aeronautical Activities only. TENANT shall have, and is hereby granted by the City, the nonexclusive use of all of the CITY's improvements for the common use of TENANTS. TENANTS shall not use the leased premises for non-aviation activities. TENANT shall prepare and submit such reports as may be required by the Airport Manager concerning any fees collected by TENANT on such forms and at such reasonable intervals as directed by the Airport Manager.

Subject to these conditions hereof, the leased premises may NOT be used by the TENANT for any commercial activities unless the activity to be performed has been approved by the CITY and attached to this agreement as an "Exhibit".

Amount of Liability Insurance: \$1,000,000 liability insurance naming the City of Commerce as additional insured.

Definitions

"Rent" means Base Rent plus any other amounts of money due Landlord by Tenant.

"Landlord" means Landlord and its agents, employees, invites, licensees or visitors.

"Tenant" means Tenant and its agents, employees, invites, licensees or visitors.

Clauses and Covenants

A. Tenant agrees to...

1. Lease the premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.
2. Accept the Premises in their present condition "AS IS".
3. Obey all laws, ordinances, orders and rules and regulations applicable to the use conditions, and occupancy of the premises, including but not limited to any minimum standards, rules and regulations and policies for the Commerce Municipal Airport as now exist or hereinafter be adopted by the City of Commerce, Texas.
4. Pay annually, in advance on the 1st day of January, the rent to Landlord at the Landlord's address.
5. Pay for all utility service used by Tenant and not provided by Landlord.
6. Allow Landlord to enter the premises to inspect the premises for compliance with this lease agreement.
7. The following rules govern. Landlord's approving construction, additions, and alterations of building or other improvements on the premises.
 - a. Written Approval Required. NO building or other improvements may be constructed on the premises unless the plans, specifications and proposed location of the building or other improvements has received Landlord's prior written approval and the building or other improvement complies with the approved plans, specifications and proposed location. No material addition to or the alternation of any building or structure erected on the premises may

begin until plans and specifications covering the exterior of the proposed addition or alteration have been first submitted to and approved by Landlord. Tenant must begin construction within six (6) months of execution of lease.

- b. **Submission of Plans.** Tenant must, at his/its own expense, engage a licensed architect or engineer to prepare plans and specifications for constructing a tilt wall building or for constructing any other buildings or improvements that require Landlord's approval under subparagraph (a) above. Tenant must submit two (2) copies of the detailed working drawings, plans and specifications for constructing a concrete/tilt wall building for Landlord's approval within 90 days after this Lease is executed, and begin construction within six (6) months. If Tenant wishes to construct any other buildings or improvements for which Landlord's approval is required under Subsection (a) above, Tenant must submit two (2) copies of detailed working drawings, plans, and specifications for any such projects for Landlord's approval before the project begins.
- c. **Landlord's Approval.** Landlord will promptly review and approve all plans submitted under subparagraph (b) above or not in writing any required changes or corrections that must be made to the plans. Any required changes or corrections that must be made, and the plans resubmitted to landlord, within 30 days after the corrections or changes have been noted. Landlord's failure to object to the resubmitted plans and specifications within 30 days constitutes its approval of the changes. Minor changes in work or materials not affecting the general character of the building project may be made at any time without Landlord's approval, but a copy of the altered plans and specifications must be furnished to the Landlord.
- d. **Exception to Landlord's Approval.** The following items do not require submission to, and approval by Landlord:
 - 1. Minor changes and alterations necessary to maintain existing structures and improvements in a useful state of repair and operation.
 - 2. Changes and alterations required by an authorized public official with authority or jurisdiction over the buildings or improvements to comply with legal requirements.
- e. **Effect of Approval.** Landlord's approval of any plans and specifications applies only to the conformity of the plans and specifications to the general architectural plan for the premises, and Landlord may not reasonably withhold approval. Landlord's approval does not constitute approval of the architectural or engineering design, and Landlord, by approving the plans and specifications, assumes no liability or responsibility for the architectural or engineering design or for any defect in any building or improvement constructed from the plans or specifications.

8. Maintain public liability insurance for the Premises and the conduct of Tenant's business, naming Landlord as an additional insured, in the amounts stated in the lease.
 9. Maintain insurance on Tenant's personal property.
 10. Deliver certifications of insurance to Landlord before the Commencement Date thereafter when requested.
 11. Indemnify, defend and hold Landlord harmless from any loss, attorney's fees, court and other cost, or claims arising out of the use of the land.
 12. Vacate the Premises on termination of this lease.
- B. Tenant agrees not to:
1. Use the premises for any purpose other than that listed in the lease.
 2. Create a nuisance.
 3. Interfere with any other Tenants' normal business operations or Landlord's management of the Airport.
 4. Permit any waste.
 5. Use the Premises in any way that is extra hazardous, or would increase insurance premiums of the Landlord.
 6. Allow a lien to be placed on the Premises, provided, however, Tenant may, at any time and from time to time, encumber the leasehold interest, by Deed of Trust, mortgage, or other security instrument, without obtaining Landlord's consent, but no such encumbrances shall constitute a lien on Landlord's fee title. The indebtedness secured by the encumbrance will at all times be and remain inferior and subordinate to all the conditions, covenants, and obligations of this lease and to all Landlord's rights under this lease, References in this lease to "Lender" refer to any person or entity to whom Tenant has encumbered its leasehold interest.
 7. At any time after execution and recordation in Hunt County, Texas of any mortgage or Deed of Trust encumbering Tenant's leasehold interest, Lender may notify Landlord in writing that the mortgage or Deed of Trust has been given and executed by the Tenant and furnish Landlord with the address to which it wants copies of notices to be mailed, or designate some person or corporation in the City of Commerce, Texas, as its agent and to any agent or representative designated by Lender, at the addresses given duplicate copies of all written notices that Landlord gives or serves on Tenant under this Lease after receiving such a notice from Lender.

8. Lender may do any act required of Tenant to prevent forfeiture of Tenant's leasehold interest; all such acts are as effective to prevent a forfeiture of Tenant's rights under this lease as if done by Tenant.
9. Lender may realize on the security afforded by the leasehold estate by exercising foreclosure proceedings or power of sale or other remedy afforded in law or equity by the security documents and may transfer, convey, or assign Tenant's title to the leasehold estate created by this Lease to any purchaser at any such foreclosure sale. Lender also may acquire and succeed to Tenant's interest under this Lease by virtue of any such foreclosure sale. Lender also may acquire and succeed to Tenant's interest under this Lease by virtue of any such foreclosure sale. Any purchaser of the property at a foreclosure sale becomes obligated to Lender as the Tenant under the Lease.
10. Assign this lease or sublease any portion of the Premises without Landlord's written consent.

C. Landlord agrees to:

1. Lease to Tenant the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.
2. Obey all laws, ordinances, orders and rules and regulations applicable to the use, condition and occupancy of the Premises.
3. Provide such utility service connections to the property as the Parties may agree in writing.

D. Landlord agrees not to:

1. Interfere with Tenant's possession of the Premises as long as Tenant is not in default.
2. Unreasonably withhold consent to a proposed assignment or sublease.

E. Landlord and Tenant agree to the Following:

1. Alterations. Any physical additions or physical improvements to the Premises made by Tenant will become the property of Landlord at the expiration of the Lease. Landlord may require that Tenant, at termination of this Lease and at Tenant's expense, to remove any physical additions and improvements, repair any alterations, and restore the Premises to the condition existing at the Commencement Date, normal wear and tear expected.

2. Default by Tenant/Event. Defaults by Tenants are (a) failing to pay timely rent, (b) abandoning or vacating a substantial portion of the Premises, and (c) failing to comply within

ten days after written notice with any provision of this lease other than the defaults set forth in (a) and (b) above.

3. Default by Tenant/Landlord's Remedies. Landlord's remedies for Tenant's default are to (a) enter and take possession of the Premises, after which Landlord may relet the Premises on behalf of Tenant and receive the rent directly by reason of reletting, and Tenant agrees to reimburse Landlord for any expenditures made in order to relet; (b) enter the Premises and perform Tenant's obligations; and (c) terminate this lease by written notice and sue for damages. Landlord may enter and take possession of the Premises or any other person who may be occupying the Premises, until the default is cured, without being liable for damages.

4. Default/Waiver/Mitigation. It is not a waiver of default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this lease does not preclude pursuit of other remedies in this lease or provided by law. Landlord and Tenant have a duty to mitigate damages.

5. Holdover. If Tenant does not vacate the Premises following termination of this lease, Tenant will become a tenant at will and must vacate the Premises on receipt of notice from Landlord. No holding over by Tenant, whether with or without the consent of Landlord, will extend the Term.

6. Alternative Dispute Resolution. Landlord and Tenant agree to mediate in good faith before filing a suit for damages.

7. Attorney's Fees. If either party retains an attorney to enforce this lease, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

8. Venue. Venue is Hunt County.

9. Entire Agreement. This Lease, together with the attached exhibits and riders, is the entire agreement of the parties, and there are no oral representations, warranties, agreements, or promises pertaining to this Lease or to any expressly mentioned exhibits and riders not incorporated in writing in this Lease.

10. Amendment of Lease. This lease may be amended only by an instrument in writing signed by Landlord and Tenant.

11. Notices. Any notice required or permitted under this lease must be in writing. Any notice required by this lease will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipts requested, and addressed to the intended recipient at the address shown in this lease. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

12. Abandoned Property. Landlord may retain, destroy, or dispose of any property left on the Premises at the end of the Term.

13. Subordination. Landlord subordinates its security interest and liens to purchase money security interests in Tenant's personal property.

14. Extension Option. Tenant has the option to extend the Term as follows: Tenant has the option to extend the lease for an additional ten (10) years on the same terms and conditions by giving notice to City not less than six (6) months prior to the expiration of the original term of this Lease agreement. During any extension period, the rent to be paid by Tenant to Landlord will be adjusted as like cost of airports in adjoining counties.

INDEMNIFICATION OF LANDLORD

Landlord is not liable for any loss, damage, or injury of any kind, to any person or property arising from any use of the premises (or any part of them) or caused by and defect in any building, structure, improvement, equipment, or facility on the premises or caused by or arising from any act or omission of Tenant, or of any of its agents, employees, licensees, or invitees, or by or from any accident, fire or other casualty on the land, or brought about by Tenant's failure to maintain safe condition.

LANDLORD:

CITY OF COMMERCE, TEXAS

BY: _____
Authorized Officer

TENANT:

BY: _____