

**COUNTY OF TYLER, STATE OF TEXAS
FACILITIES USE AGREEMENT**

This agreement, made by and between Tyler County, State of Texas, hereinafter referred to as "the County" and the Texas State Guard, hereinafter referred to as the "Tenant".

WITNESSETH

WHEREAS the County owns certain facilities as described in the agreement; and

WHEREAS Tenant desires to occupy those premises for the purposes herein contained; and

WHEREAS the Tenant's occupation and use of premises will be for public purposes.

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, the County and the Tenant agree as follows;

1.0 Grant:

The County, for and in consideration of the covenants, conditions and agreements to be done and performed by the Tenant, hereby grants permission to Tenant to utilize, use and share with County the following described facilities: Emergency Management Offices and facilities located at 200 Veterans Way, Woodville, Texas, hereinafter referred to as the "Facility", for the sole purpose of housing the mission ready operations of the Texas State Guard at no cost. Tenant warrants that it has physically inspected the Facility and accepts the Facility in its present condition, "as is", is suitable for its operational requirements.

2.0 Term:

- **Initial Term:** This agreement shall become effective upon its execution by both Parties and shall continue in force for an initial term of five (5) years, unless sooner terminated as provided herein.
- **Renewal:** Upon completion of its initial term, and provided that Tenant is not in default under this Agreement, the Agreement may be renewed by the County for two (2) additional five (5) year terms, subject to written approval by both parties and to any modifications to the Agreement as are mutually agreeable.
- **Termination for Convenience:** Notwithstanding any other provision, this Agreement may be terminated, in whole or in part, with sixty (60) days written notice, at the County's sole discretion, if it is determined that such termination is in the best interest of the County.
- **Specifics:** Tenant shall be permitted to exclusively utilize the designated portable office building and one (1) conex box located in the north fenced lot as well as the north end of the larger secondary fenced lot for the term of this Agreement, whereas the remainder of the facility belonging to the Emergency Management Offices shall be utilized on a shared basis by the Tenant during predetermined times as published by Tenant. **COUNTY HEREBY DISCLAIMS AND TENANT WAIVES THE BENEFIT OF ANY AND ALL IMPLIED WARRANTIES, INCLUDING IMPLIED WARRANTIES OF HABITABILITY, FITNESS OR SUITABILITY FOR A PARTICULAR PURPOSE. TENANT ACKNOWLEDGES THAT NEITHER THE COUNTY NOR ANY AGENT OF THE COUNTY HAD MADE ANY REPRESENTATIONS OR WARRANTY WITH RESPECT TO THE FACILITY OR SUITABILITY OF THE FACILITY FOR THE**

PURPOSE HEREIN INTENDED. BY OCCUPYING THE FACILITY, TENANT IS DEEMED TO HAVE ACCEPTED THE FACILITY AS SUITABLE FOR ITS PURPOSE.

- Time shall be of the essence in this Agreement. The time granted for the use of the facility or for the installation or removal of equipment shall not be extended without written permission of the County.

3.0 Alterations, Additions or Replacements:

Tenant shall make no alterations, additions or replacement or improvements to any part of the Facility other than those expressly approved in writing by the County beforehand upon commencement of the Agreement, nor shall Tenant install any equipment that requires any electrical connection other than a standard wall plug or floor receptacle nor make any changes in those electrical connections installed at the Facility and premises without prior written consent of the County Commissioners Court. Any electrical service other than that provided at the execution of this Agreement shall be installed and provided at Tenant's sole cost and expense.

4.0 Maintenance of Facility and Improvements:

- **General Maintenance:** Tenant shall maintain the Facility and premises and all improvements, additions or alterations to the Facility in good working order and in a condition based on a standard of care reflecting prudent property management, reasonable wear and tear excepted. For any required general maintenance, the County agrees to supply maintenance materials and Tenant agrees to perform all labor for general maintenance at its sole cost and expense.
- **Preventive Maintenance and Repair:** Tenant shall perform, at its sole expense, ordinary preventive maintenance and ordinary upkeep and repair of all Tenant owned structures, personal property and equipment at the facility.
- **Off-Property Repair:** Tenant shall, at its sole expense, immediately repair any and all damage in or to any area of the Facility occasioned by the intentional or negligent acts, omissions or fault of the Tenant, its agents or employees, and shall immediately remove any litter, debris, petroleum products or other liquids, waste or grease that may result from its operations or the activities of its agents, employees or suppliers.
- **Maintenance or Repair by the County upon Tenants Default:** (a) In the event that Tenant defaults to perform any obligation required by this Section to be performed by Tenant at Tenant's cost for a period of fifteen (15) days after receipt of written notice from the County to do so, the County, upon the expiration of fifteen (15) day period may, but shall not be obligated to, perform that obligation of Tenant, which may include entry upon the premises and Facility if reasonably required. (b) Notwithstanding the foregoing, in the event that Tenant's failure to perform such obligations under this Section, endanger the health and safety of the public, the County May, but shall not be obligated to, perform the obligations of the Tenant upon prior written notice of its intent to do so, without awaiting the expirations of the fifteen (15) day period. (c) In the event that the County performs any obligation of Tenant under this Section, then the County is entitled to invoice the Tenant for the reasonable cost and expense of performing such obligations, plus fifteen percent (15%) administrative charge, and Tenant shall pay such amount on or before the first day of the next month. (d) The County shall not be liable to the Tenant for any loss, cost or expense to Tenant resulting for the County's performance of Tenant's obligations in accordance with the provisions of the Section.

5.0 Entry and Inspection of Facility:

- **Entry and Inspection:** The County and its authorized officers, employees, agents, contractors, subcontractors or other representative shall have the right to enter upon the premises and Facility: (a) During reasonable business hours to determine whether Tenant is complying with the terms and conditions of this Agreement; (b) during reasonable business hours for the purpose of inspecting the

10.0 Alcohol Use:

This Agreement grants to Tenant no greater right than expressly stated herein and specifically denies any right to Tenant or possession or occupancy that would be in violation of State Laws, rules and regulations, particularly with respect to the dispensing of alcohol and alcoholic beverages.

11.0 Governing Law and Venue:

This agreement shall be governed by the laws of the State of Texas and venue shall lie in Tyler County, Texas.

12.0 Contract Modifications:

This written agreement shall supersede and void all prior understandings whether written or oral and the terms herein shall bind parties. Any modifications or amendments hereto must be done in writing and signed by the parties.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this agreement on _____.

COUNTY

TENANT

By: _____
(Signature) (Date)

By: _____
(Signature) (Date)

(Printed Name)

(Printed Name)

(Title)

(Title)