



RESOLUTION NO. 20151124-10

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR/CEO TO EXECUTE A SHORT TERM LEASE AGREEMENT FOR OFFICE SPACE AT 11 CHAPEL LANE, NEW BOSTON, TEXAS 75570 TO EXPAL USA, INC.

WHEREAS, TexAmericas Center is a political subdivision of the State of Texas with the powers and authorities specified in Chapter 3503 of the Special District Local Laws Code of the State of Texas; and

WHEREAS, Expal USA, Inc. contacted TexAmericas Center to seek a lease arrangement for office space at 11 Chapel Lane, New Boston, Texas 75570 ; and

WHEREAS, the parties have come to the attached terms of agreement for said lease.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of TexAmericas Center that the Executive Director/CEO shall be and he is hereby authorized to execute the attached lease; and

BE IT FURTHER RESOLVED, by the Board of Directors of TexAmericas Center that the Center appreciates the collaborative effort of Expal USA, Inc. to negotiate this lease as well as to locate its business operations, create jobs and contribute to the tax base in Bowie County, Texas.

PASSED AND APPROVED THIS 24th day of November, 2015.



Denis Washington, Chairman of the Board

ATTEST:



Boyd Sartin, Secretary/Treasurer

Attached: Short Term Lease Agreement



SHORT TERM LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") is between **TEXAMERICAS CENTER**, a political subdivision of the State of Texas ("Landlord"), and **EXPAL USA, Inc.** ("Tenant").

Section 1. Fundamental Lease Provisions. The following is a summary of the fundamental lease provisions which are set forth in this Section 1 for reference.

- 1.1. Effective Date of Lease: November 1, 2015
- 1.2. Location of Premises: 11 Chapel Lane, New Boston, Texas
- 1.3. Landlord: TexAmericas Center, a political subdivision of the State of Texas
- 1.4. Address of Landlord: 107 Chapel Lane, New Boston, Texas 75570
- 1.5. Tenant: Expal USA, Inc.
- 1.6. Address of Tenant: Attn: Steve Dart, CEO
7400 Regency Rd.
Marshall, Texas 75672
- 1.7. Premises: Depicted on Exhibit A attached hereto; the former CEO office of Landlord located in Building 11 at the Premises.
- 1.8. Term Commencement: November 1, 2015
- 1.9. Term Expiration: October 31, 2016
- 1.10. Basic Rent for Term: \$1.00
- 1.11. Permitted Use: Office and Administrative Use only
- 1.12. Security Deposit: N/A
- 1.13. Ad Valorem Tax Deposit: N/A

Section 2. Demise; Term.

2.1. Demise. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord subject to the terms set forth herein, the Premises described in Section 1.7 hereof (the "Premises").

2.2. Term. The term (the "Term") commences on the date set forth in Section 1.8 (the "Commencement Date") and ends on the date set forth in Section 1.9 unless sooner terminated hereunder.

2.3. Acceptance of Premises. Tenant hereby accepts the Premises in an "AS-IS" "WHERE IS" condition, WITH ALL FAULTS. Except as otherwise set forth herein, Landlord has made no representations or warranties with respect thereto and that Tenant has inspected the Premises and found the same to be in satisfactory condition.

Section 3. Rents. Tenant agrees to pay to Landlord for the use of the Premises, at the times and in the manner hereinafter provided, the Basic Rent on or before November 15, 2015:

Section 4. Use. The Premises shall be used solely for the permitted use specified in Section 1.11 hereof and for no other purpose without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Tenant shall use the Premises in a careful and safe manner, shall not commit or suffer waste, and shall not make or permit any nuisance. Tenant shall comply with all laws, rules, regulations, orders and requirements of all governmental authorities which affect the Premises or Tenant's use thereof, including, but not limited to all covenants, conditions and restrictions appearing of public record in Bowie County, Texas, and all agreements between Landlord and the United States of America (including any constituent agencies, departments, or branches), copies of which are available for review in the offices of the Landlord, and all environmental laws, rules and regulations applicable to the Property, and the use of hazardous materials thereon. .

Section 5. Maintenance and Repair of Premises.

5.1. Obligations of Landlord. Landlord shall have the responsibility to maintain, repair or replace the Premises, except in the case of Casualty Damage or Destruction as set forth in Section 12, or in the event of damage to the Premises caused by Tenant, its employees, invitees and contractors.

5.2. Obligations of Tenant. Except for Landlord's obligations under Section 5.1, Tenant agrees, at its sole cost and expense, to maintain, repair and replace as necessary to keep the Premises in a good and safe condition and repair all of the Premises due to damage caused by Tenant, its employees, invitees and contractors.

Section 6. Access to Premises. Landlord and its agents and employees shall have the right to enter upon the Premises at all reasonable times for the purpose of inspecting the Premises, for making repairs or alterations to the Premises or for showing the Premises to prospective purchasers, tenants or lenders.

Section 7. Utilities. All utilities and services to the Premises, including, without limitation, water, sewer, gas, electricity, and trash removal, shall be paid for by Landlord. Tenant shall reimburse Landlord for utilities provided by Landlord at the rate of \$ ~~N/A~~ per month.

Section 8. Interruption of Services. No interruption of any utilities or services to the Premises shall result in any abatement of Rents, nor shall Landlord be liable for damages or costs resulting therefrom.

Section 9. Personal Property. All inventory, furnishings, trade fixtures, equipment and other personal property (collectively "Tenant Personal Property") of Tenant or any third party shall be stored or kept at the sole risk of Tenant, and Landlord shall not be liable for any loss or damage thereto. Tenant shall remove all Tenant Personal Property from the Premises upon the termination of this Lease and Tenant shall promptly repair, at its sole cost and expense, any damage caused by such removal.

Section 10. Alterations and Improvements. Tenant shall make no alterations or improvements to the Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Tenant shall not place any signs on the Premises except with the prior written approval of Landlord, which approval shall not be unreasonably withheld, conditioned or delayed. Tenant shall comply with all laws, rules, regulations and requirements of governmental authorities with respect to signs, maintain any signs on the Premises in good condition and repair, and upon expiration or termination of this Lease remove all signs placed by Tenant on the Premises and repair any damage caused by such removal.

Section 11. Assignment and Subletting. Tenant may not assign this Lease or sublet the Premises, or any interest herein or portion thereof, without the prior written consent of Landlord.

Section 12. Damage and Destruction. If the improvements on the Premises are wholly or partially damaged or destroyed by fire or other casualty either Landlord or Tenant may, within thirty (30) days after such fire or other casualty, terminate this Lease upon thirty (30) days written notice to the other party. If Landlord decides, in Landlord's sole discretion, to restore and rebuild the improvements on the Premises, Landlord shall notify Tenant in writing of such decision, and upon Tenant's written consent, shall restore and rebuild the same to substantially the same condition which existed on the effective date of this Lease, this Lease shall remain in full force and effect and Rents shall abate in proportion to the area of the Premises rendered untenable from the date of such casualty until the completion of Landlord's restoration and rebuilding. Within thirty (30) days after the completion of Landlord's restoration and rebuilding, Tenant shall restore and rebuild any improvements constructed by Tenant on the Premises and reopen for business in the Premises. If Tenant shall not consent to Landlord's decision to restore and rebuild the Premises, this Lease shall terminate effective upon Tenant's written notice of its refusal to so consent.

Section 13. Condemnation. If all or any material portion, as reasonably determined by Landlord, of the Premises are taken under the power of eminent domain or conveyed in lieu thereof, this Lease shall terminate effective on the date of transfer of title and all Rents shall be adjusted as of such date. All proceeds shall be the sole property of Landlord, and Tenant shall not be entitled to any portion thereof.

Section 14. Taxes.

- a. In addition to the fixed rent specified in § 1.10, Tenant shall also pay all personal property taxes levied against Tenant's personal property located in the Premises.

Section 15. Insurance.

15.1. Tenant's Insurance. Tenant shall, at Tenant's expense, maintain during the Term (i) comprehensive general public liability insurance against claims for personal injury, death and property damage occurring on or about the Premises or resulting from the occupancy or use of the Premises by Tenant or any officer, employee, agent, customer, licensee, invitee or sublessee of Tenant with a minimum limits of liability of One Million Dollars (\$1,000,000) per occurrence and One Hundred Thousand Dollars (\$100,000) property damage; and (ii) special form property insurance for all Tenant Personal Property located in, on or about the Premises, in an amount not less than the full replacement cost. Certificates of the insurance coverage shall be delivered to Landlord. All Tenant's policies shall name Landlord and any other person designated by Landlord as additional insureds and provide that they cannot be canceled without thirty (30) days prior written notice to Landlord.

15.2. Landlord's Insurance. Landlord may keep the Premises and Landlord's Personal Property insured in any amount it deems acceptable. Said insurance shall be solely for the benefit of Landlord. Landlord shall be the named insured.

15.3. Waiver of Subrogation. Landlord and Tenant agree that with respect to any loss which is covered by insurance then being carried by them respectively, or required to be carried under this Lease, the party carrying or required to carry such insurance and suffering the loss hereby releases, on behalf of itself and its insurance carrier, the other from any and all claims with respect to such loss; and further mutually agree that their respective insurance companies shall have no right of subrogation against the other on account thereof.

Section 16. Default and Remedies.

16.1. The occurrence of any one or more of the following shall constitute a default and breach of this Lease by Tenant (each a "Tenant Default"): (i) the failure of Tenant to make any payment of Rents or any other amount payable to Landlord under this Lease within 5 business days after notice by Landlord to Tenant; (ii) the failure of Tenant to observe or perform any other provision of this Lease, other than those described in subparagraph "i" above, within 20 days after notice by Landlord to Tenant, provided, if more than 20 days is reasonably required to cure such failure, Tenant shall not be in default if Tenant commences such cure within said 20 day period and diligently prosecutes such cure to completion within 60 days after such notice; or (iii) the making by Tenant of any general assignment for the benefit of creditors; or the filing against Tenant of an involuntary petition to have Tenant adjudged a bankrupt which is not dismissed within 30 days, or the filing by Tenant of a petition for reorganization relating to bankruptcy, or the appointment of a trustee or a receiver to take possession of Tenant's assets and such appointment is not vacated within 30 days.

16.2. In the event of a Tenant Default, then Landlord may remedy or cure Tenant's default; and if Landlord should do so in whole or in part, then Tenant shall reimburse Landlord for all costs and expenses paid or incurred by it in connection therewith, together with interest thereon at the rate of 5% per annum until the same is paid in full. In addition, Landlord shall have all of the rights and remedies afforded to it at law and in equity, any one or more of which may be exercised and enforced independently or concurrently without further notice to Tenant, without waiving any of Landlord's other rights and remedies, without terminating this Lease, and

all of which rights and remedies shall, to the extent applicable, survive the termination of this Lease.

16.3. Landlord and Tenant waive their right to trial by jury in any action brought against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, or Tenant's use or occupancy of the Premises.

Section 17. Indemnification: Release. Tenant shall indemnify and hold Landlord harmless from and against any and all losses, liabilities, damages, claims, costs and expenses, including, without limitation, reasonable attorneys' fees, expenses and disbursements for injuries to or death of persons and damage to property sustained in, on or about the Premises or resulting from the use or occupancy of the Premises by Tenant, or any officer, employee, agent, customer, licensee, invitee or sublessee of Tenant or the failure of Tenant to perform and observe the obligations of Tenant under this Lease except to the extent resulting from the gross negligence or willful misconduct of Landlord, its employees, agents or contractors. Tenant agrees to indemnify, defend, and hold harmless Landlord from and against all claims, liabilities, losses, damages, and costs, foreseen or unforeseen, including without limitation counsel, engineering, and other professional or expert fees, that Landlord may incur by reason of Tenant's action or inaction with regard to Tenant's use of the Premises under this lease. This section survives the expiration or earlier termination of this lease.

Section 18. Surrender of Premises: Holding Over. Tenant shall surrender possession of the Premises to Landlord upon the expiration of this Lease, in as good condition and repair as Landlord delivered the Premises to Tenant, reasonable wear, tear and casualty excepted. All improvements to the Premises constructed by Tenant and all Tenant Personal Property remaining at the Premises after the expiration of the Term shall be deemed abandoned and Landlord may dispose of the same without liability therefore and Tenant shall reimburse Landlord on demand for any costs of removal and disposal. If Tenant shall continue to occupy the Premises after the expiration of the Term, Tenant's occupancy shall be a tenancy at sufferance, terminable by written notice from Landlord to Tenant, subject to all of the terms of this Lease except that the monthly installments of Basic Rent shall be Two Hundred Dollars (\$200.00) due on the first day of each month.

Section 19. Attornment and Subordination. Tenant agrees that this Lease shall be subordinate to any mortgage(s) that are now or may hereafter be placed upon the Premises, and all renewals, replacements and extensions thereof.

Section 20. Notices. Any notice, demand, request or statement given or delivered under this Lease shall be in writing, and either (i) personally delivered, or (ii) sent by United States Mail, postage prepaid, registered or certified mail, return receipt requested, or (iii) reputable overnight courier which provides written evidence of receipt, addressed to the party to be notified at the address set forth in Sections 1.4 and 1.6 hereof, or such other address as either party may hereafter designate by written notice to the other party, and shall be deemed to be delivered on the earlier to occur of (i) actual receipt, or (ii) one business day after deposit with an overnight courier service or three business days after deposit with the United States Postal Service.

Section 21. Limitation of Landlord's Liability. The covenants of Landlord hereunder are not the personal obligations of Landlord and this Lease is entered into on the express condition that any judgment obtained against Landlord in connection with this Lease or the Premises shall be satisfied only from Landlord's interest in the Premises and any proceeds received from the sale thereof. Upon any transfer of Landlord's interest in the Premises, Landlord shall be relieved of all obligations under this Lease accruing after the date of such transfer.

Section 22. Miscellaneous. The failure of a party to enforce any of its rights under this Lease shall not be a waiver of the right of Landlord or Tenant to exercise any such rights as to any occurrences. In the event that litigation arises between the parties under this Lease the prevailing party in such litigation shall be entitled to recover its costs and expenses, including reasonable attorneys' fees, expenses and disbursements, from the non-prevailing party. This Lease, including the Exhibit(s) hereto, sets forth the entire agreement between the parties with respect to the Premises, any prior conversations or writings are merged herein and extinguished and no subsequent amendment to this Lease shall be binding unless reduced to writing and signed by the party to be charged. The captions appearing herein are inserted only as a matter of convenience and are not intended to define, limit, construe or describe the scope or intent of any provision of this Lease or in any way affect the interpretation of this Lease. This Lease shall be governed by and construed in accordance the laws of the State where the Premises is located. If any provision of this Lease or the application thereof to any party or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such provision to other circumstances shall not be affected thereby. This Lease shall inure to the benefit of and be binding upon the parties hereto and their respective permitted successors and assigns. The agreements and covenants of Tenant shall survive the expiration or termination of this Lease. Time is of the essence of this Lease.


Section 23. Municipal and Emergency Services. Tenant shall pay for all municipal services (Police, Hazardous Spill Response, Emergency Medical Response and Fire Protection) used by Tenant, its employees, guests, invitees, and any and all persons while upon the Premises. Said services may be furnished by local law enforcement agencies and by the U.S. Department of the Army as provided in that certain Municipal Services Agreement between Red River Army Depot and Red River Redevelopment Authority dated the 4th day of February, 1998, as it may be amended from time to time. Tenant shall pay to, or reimburse, Landlord for all municipal services furnished to Tenant or to persons on the Premises within ten (10) days after receipt of an invoice for said services from Landlord. Tenant shall be entitled to receive and shall handle all documentation for reimbursement by insurance companies or other third party benefit plan providers.

Section 24. Army Imposed Restrictions. Notwithstanding any other provision of this Lease, this Lease Agreement is made subject to, and Tenant agrees to be bound by those certain exceptions, limitations, covenants, conditions and reservations set forth in the Deed Without Warranty conveying the Premises from the United States of America, acting by and through the Secretary of the Army to Red River Redevelopment Authority dated September 1, 2010, and recorded in Volume 5898, Page 1 of the Real Property Records, Bowie County, Texas, to the extent said provisions apply to the Premises. A copy of the Deed Without Warranty is available at the offices of Landlord.


IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed to be effective as of the date first above written.

LANDLORD

TEXAMERICAS CENTER

By: 
Name: Scott Norton
Title: Executive Director / CEO
11/24/15

TENANT

EXPAL USA, INC.
By: 
Name: Steve Dart
Title: CEO