



RESOLUTION NO. 20160524-10

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR/CEO TO EXECUTE A LICENSE AGREEMENT FOR INHABITED BUILDINGS RESTRICTED AREA 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 License Agreement for Inhabited Buildings Restricted Area on the TAC-East Campus; and

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

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 License Agreement for Inhabited Buildings Restricted Area; 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 License Agreement for Inhabited Buildings Restricted Area on the TAC-East Campus 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 May, 2016.



Denis Washington, Chairman of the Board

ATTEST:



Boyd Sartin, Secretary/Treasurer

Attached: License Agreement for Inhabited Buildings Restricted Area



LICENSE AGREEMENT FOR INHABITED BUILDINGS RESTRICTED AREA

This License Agreement is entered into by and between TexAmericas Center, a political subdivision of the State of Texas having its principal office at 107 Chapel Lane, New Boston, Bowie County, Texas 75570, hereinafter referred to as "TAC" and Expal USA, Inc., a Delaware Corporation having its principal office at 7400 Regency Rd. Marshall, TX, 75672, hereinafter referred to as "Licensec".

RECITALS

WHEREAS, TAC is the owner of property commonly known as TexAmericas Center-East being a part of the former Lone Star Army Ammunition Plant located in Bowie County, Texas; and

WHEREAS, Licensec is a private company which desires to use on a non-exclusive basis certain property of TAC; and

WHEREAS, TAC and Licensec have agreed to the terms of this License Agreement;

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions set forth herein, TAC and Licensec do hereby agree as follows:

1. License. TAC does hereby grant to Licensec a non-exclusive License to use property owned by TAC upon the TexAmericas Center-East Campus (the Licensed Premises) during the term of this License Agreement which property is described as follows:

That certain Area outlined in the colored lines emanating from the TAC East Holding Company No. 1 property and more particularly described upon Exhibit "A", including roads necessary for ingress and egress to the above described property.

2. Term of License. The Term of this License is for a period of 10 years, beginning on the 1st day of February, 2015, and ending on the 31st day of January, 2025, unless terminated earlier as provided in this Agreement. The Term is co-existent with the term of a Lease between TAC and Licensec on property adjacent to the above described property. When said Lease terminates, this License shall also terminate on the same date also.

(optional)

3. Option to Extend Term. Licensec may extend the term of this agreement beyond the expiration date provided in Section 2 above on the following conditions:

A. Licensec may, if it is not in default, either on the date required for the notice or on the date such extension commences, extend the term for 1 additional period of 5 years. The

extended term will begin on the day following the expiration date of the term specified in Section 2, or on the day following the expiration date of the immediately preceding extended term as applicable. If, at the date the original term or any extended term expires, Tenant is in default beyond any grace period provided in this agreement, the remaining option or options are void. All of the terms and covenants of this agreement apply to all extended terms.

B. Licensee may exercise the option to extend this License Agreement by giving TAC notice of its intention to do so not later than 6 months before the then current Term expires. Notice of an intention to exercise an option under this agreement must, to be effective, be sent by mail, fax, or email to TAC at the address provided in this agreement.

4. Consideration. Licensee will pay to TAC \$100.00 on or before the 1st day of June, 2016, and at the commencement of any extended term if the option to extend is properly exercised. Consideration for any fractional month at the beginning or end of the term of this agreement will be prorated on a per day basis. The consideration will be paid by Licensee to TAC at TAC's office located at 107 Chapel Lane, New Boston, Bowie County, Texas 75570.

5. Use. Licensee shall use the Licensed Premises solely as an inhabited building restricted area (blast arc protection area) free and clear of any buildings or other structures occupied on a regular basis by one or more persons. The area is a blast arc safety zone and may not be used for any other purpose without the written consent of TAC, which consent may be denied or withheld by TAC in its sole discretion. The blast arc safety zone shall not overlap Cypress Rd on the North or Maple on the south without written consent of TexAmericas Center, nor adjoining property owner to the West.

6. Taxes. Should this License Agreement cause the Licensed Premises to be placed upon the tax rolls and taxes be assessed against said Licensed Premises, Licensee shall pay any and all taxes assessed against said License Premises. Licensee shall hold TAC harmless and indemnify TAC against any and all claims for taxes due including but not limited to penalties, interests and attorney's fees assessed.

7. Compliance with Laws.

A. Licensee may not use, or permit using, the Licensed Premises in any manner that results in waste of the premises or constitutes a nuisance or for any illegal purpose. Licensee, at its own expense, will comply, and will cause its officers, employees, agents, subcontractors, and invitees to comply with all applicable laws, ordinances, and governmental rules and regulations concerning the use of the Licensed Premises, including Hazardous Materials Laws, and statutes, rules and regulations relating to the manufacture, storage and transportation of explosives.

B. Hazardous Materials Laws means any federal, state or local statute, ordinance, order, rule, or regulation of any type relating to the storage, handling, use, or disposal of any Hazardous Materials, the contamination of the environment, or any removal of such contamination, including, without limitation the Clean Water Act, 33 USC, Section 1251, et sec, listed pursuant to Section 307 of the Clean Water Act, materials defined as Hazardous Substance pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, materials defined as

Hazardous Waste pursuant to Section 1004 of the Resource Conservation and Recovery Act, Petroleum, Asbestos, and Polychlorinated Biphenyls.

8. **Insurance.** Licensee must, at its own expense during the term of this agreement and any extended term, maintain insurance as follows:

A. Prior to the start of Term, Licensee shall procure and maintain in force Workers' Compensation Insurance, Employer's Liability Insurance, Automobile Insurance and General Liability Insurance. The General Liability Insurance shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, contractual liability, and broad form property damage. The General Liability Insurance shall name TAC as an additional insured for liability arising out of the actions or inactions of Licensee.

Licensee's Employer's Liability, Business Auto Liability, and General Liability Policies, will procure and maintain during the entire period of its performance under this contract the following minimum insurance:

Worker's Compensation and Employer's Liability

Comply with federal and state worker's comp and occupational disease statutes

Employer's Liability (at least)

Bodily Injury by Accident: \$1,000,000.00
Bodily Injury by Disease: \$1,000,000.00

Auto Liability:

Bodily Injury (at least)
per person \$500,000.00
per occurrence \$1,000,000.00
Property Damage (at least)
per occurrence \$200,000.00

General Liability: (at least)

Per Occurrence: \$1,000,000.00
Aggregate: \$2,000,000.00

B. The Employer's Liability, Auto Liability and General Liability Coverages may be arranged under a single policy for the full limits required or by the combination of the underlying policies with the balance provided by excess and/or umbrella liability policies.

C. Licensee shall maintain in effect all insurance coverage required at Licensee's sole expense with insurance companies authorized to do business in the State of Texas. If Licensee fails to obtain or maintain any insurance coverage then TAC may deny the Licensee access to Licensed Property.

D. The policies of insurance required shall contain a provision that the coverages afforded under the policies will not be cancelled or allowed to expire until at least 30 days prior written notice has been given to the TexAmericas Center.

E. Licensee shall additionally obtain and maintain in force during the term and any extended term, of this Agreement, Pollution Legal Liability Insurance providing the following coverages:

- i. On-site clean up of new conditions arising out of Licensee's operations;
- ii. Third-Party claims for on-site bodily injury and/or property damage;
- iii. Punitive Damages, fines and penalties.

The policy shall provide coverages of not less than \$2,000,000.00 per loss and not less than \$4,000,000.00 in the aggregate. The deductible on the policy shall not be greater than \$25,000.00 per occurrence.

9. Hold Harmless and Indemnity. Licensee will indemnify and hold TAC harmless against any claims, demands, damages, costs, and expenses, including reasonable attorney's fees for defending claims and demands, arising from the conduct of Licensee's business on or about the Licensed Premises or its use of the Licensed Premises; from any breach by Licensee of any conditions of this License Agreement; or from any act of negligence of Licensee, its agents, contractors, subcontractors, employees, or licensees, on or about the Licensed Premises. If any action or proceeding is brought against TAC by any reason of any such claim, Licensee, on notice from TAC, will defend the action or proceeding by counsel acceptable to TAC. Licensee shall repair any and all damage caused to the Licensed Premises by Licensee, its agents, contractors, employees or other related parties.

10. Default. If Licensee defaults by failing to pay the consideration within ten (10) days after its due date, or remains in default under any other condition of this License Agreement for thirty (30) days after written notice from TAC, TAC may, at its option, without notice to Licensee, terminate this License Agreement and pursue such remedies as it may have under the law.

11. Condition of Licensed Premises; Limitation of Tax Liability. Licensee has had the opportunity to inspect the Licensed Premises which are the subject matter of this License Agreement and accepts said Licensed Premises in their current condition as suitable for Licensee's use. Licensee accepts the condition of the Leased Premises in their current "AS IS-WHERE IS" condition. TAC shall have no responsibility to provide maintenance to said Licensed Premises during the term. Licensee shall have the Licensed Premises bush-hogged annually. Licensee hereby waives any and all claims it may now have, or may hereafter have, against TAC which arise out of Licensee's use of the Licensed Premises designated in this agreement.

12. **Security Deposit.** Upon execution of this agreement, Licensee shall deposit the sum of \$0.00 (or provide a bond or letter of credit in such amount) with TAC as a deposit. The deposit shall not accrue interest. TAC May use the deposit to pay arrears in consideration and/or to cure the breach of any covenant or condition for which Licensee is responsible under this agreement. Within thirty (30) days after termination or expiration of the term of this agreement, or any extended term, whichever is later, TAC shall return to Licensee any portion of the deposit not used for the purposes stated herein at the address designated by Licensee.

13. **Assignment.** Licensee may not assign or otherwise transfer this License Agreement, or any right or interest in it, without TAC's written consent.

14. **Notices and Addresses.** All notices required or permitted under this agreement shall be delivered to the respective parties at their addresses as set forth below their signatures to this agreement.

15. **Parties Bound.** This agreement binds, and inures to the benefit of, the parties to this agreement and their respective successors and permitted assigns.

16. **Texas Law To Apply.** This agreement is to be construed under Texas law, and all obligations of the parties created by this agreement are performable in Bowie County, Texas. Any and all litigation arising out of this agreement shall be filed and maintained in the District Court of Bowie County, Texas.

17. **Prior Agreements Superseded.** This agreement constitutes the parties' sole agreement and supersedes any prior understandings or written or oral agreements between the parties with respect to the subject matter of this agreement.

18. **Amendment.** No amendment, modification or alternation of this agreement is binding unless in writing, dated subsequent to the date of this agreement, and executed by both of the parties.

19. **Attorney's Fees and Costs.** If, as a result of either party's breaching this agreement, the other party employs an attorney to enforce its rights under this agreement, then the breaching or defaulting party will pay the other party the reasonable attorney's fees and costs incurred to enforce this agreement.

20. **Time of Essence.** Time is of the essence of this agreement.

21. **Alternative Dispute Resolution.** TAC and Licensee shall submit in good faith to mediation any and all disputes before filing suit. Each party shall pay its own counsel fees in such mediation and shall each pay one-half of the mediator's charges. The parties shall mutually agree upon the mediator, and upon failure to agree within thirty (30) days of a request by either party to mediation, shall request the County Judge of Bowie County to select a mediator whose selection shall be binding on the parties. All mediations shall take place in Bowie County, Texas.


22. LIMITATION OF WARRANTIES. THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OF ANY OTHER KIND ARISING OUT OF THIS AGREEMENT. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE, IF ANY, EXPRESSLY STATED IN THIS AGREEMENT.

23. Army Imposed Restrictions. Notwithstanding any other provision of this agreement, this agreement is made subject to, and Licensee agrees to be bound by those certain exceptions, limitations, covenants, conditions and reservations set forth in the Deed Without Warranty conveying the Licensed Premises from the United States of America, acting by and through the Secretary of the Army to Red River Redevelopment Authority (now TexAmericas Center) to the extent said provisions apply to the Licensed Premises. A copy of the Deed Without Warranty is available at the offices of TAC.

24. Reservation. TAC reserves the right to grant to third parties such rights in the Licensed Premises as TAC deems desirable, provided said rights do not interfere with Licensee's Use of the Licensed Premises for the purposes described herein.


EXECUTED and EFFECTIVE as of the date of the second party to execute the same as indicated below.

TEXAMERICAS CENTER

By: 
Scott Norton,
Executive Director/CEO
107 Chapel Lane
New Boston, Texas 75570
Telephone: 903-223-9841
Facsimile: 903-223-8742
Email: scott.norton@texamericascenter.com

Date: 6/1/16

LICENSEE


By: _____
Name: STEVEN DART
Title: CEO EXPAL USA
Address: 7600 REGENCY ROAD
Telephone: 903 472-4970
Facsimile: 903 472-6304
Email: steve.dart@me.com

Date: 6/1/16

EXHIBIT "A"

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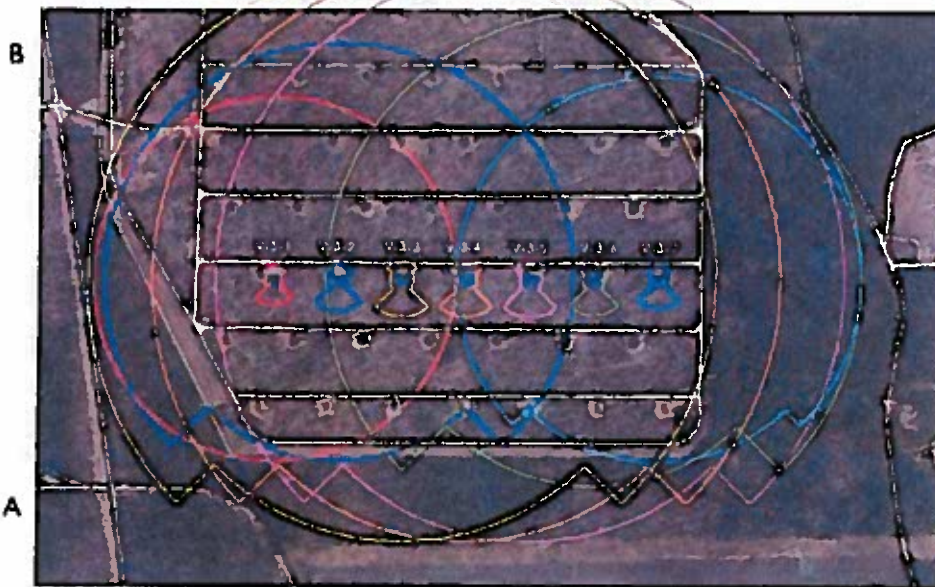
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NOTE: THE BACKGROUND PICTURE IS ONLY FOR REFERENCE PURPOSE ONLY.

Loc	NEW(Cu)	IND			ISD		
		IUR	S-S	R-FU	FPOM	SIDE	YEAR
V-3-1	45000	71	44	140	1250	1250	1280
V-3-2	100000	93	58	209	1624	1624	1250
V-3-3	150000	104	66	239	2177	2177	1804
V-3-4	150000	104	66	239	2177	2177	1804
V-3-5	150000	104	66	239	2177	2177	1804
V-3-6	120000	99	62	222	1853	1853	1415
V-3-7	64000	80	50	180	1400	1400	1250



SCALE
1:5000
DATE
08/2017
BY
A.A.
C. FERRERES

EXPAL

THIS PLAN AND SPECIFICATIONS
SHOWN ON THIS CONTRACT IS THE
PROPERTY OF EXPAL. ANY PART OR WHOLE
HEREOF IS NOT TO BE REPRODUCED
WITHOUT THE WRITTEN PERMISSION OF
EXPAL OR ITS CONSULTANT

NO. DWG. NO. REV.
B V-3
DATE: 08/17 SHEET NO.

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