

Scan +  
e-mailed  
to BBO  
4/29/22

RESOLUTION NO. 187-2022

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN AGREEMENT WITH TAC AIR, FOR HANGAR AND OFFICE RENTAL, AT A COST NOT TO EXCEED \$20,700.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute the agreement, which is attached hereto and incorporated herein by reference, with TAC Air, for hangar and office rental.

Section 2 - That an amount, not to exceed the sum of \$20,700.00, be and hereby is approved for payment to TAC Air, from account #1132-505501-71302, pursuant to the terms of the agreement.

Section 3 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: April 28, 2022



MAYOR

ATTEST:

  
CLERK OF URBAN COUNTY COUNCIL  
314-22-MRS\X:\Cases\POLICE\22-LE0003\LEG\00754120.DOC

## **AIRCRAFT STORAGE AND OFFICE AGREEMENT**

THIS AGREEMENT, made and entered into between Truman Arnold Companies d/b/a TAC Air, a Texas corporation, with offices at the Blue Grass Airport, Lexington, Kentucky, hereinafter referred to as "TAC Air" and Lexington-Fayette Urban County Government, whose address is 150 E. Main St., Lexington KY 40507, hereinafter referred to as "Customer".

### **WITNESSETH THAT:**

WHEREAS, TAC Air is a fixed base operator (FBO) at the Blue Grass Airport, Lexington, Kentucky, said Airport being hereinafter referred to as the "Airport", and thereon provides aviation related support services and has available for the use of certain of its customers a number of hangar spaces, and

WHEREAS, Customer owns, possesses and/or operates the aircraft hereinafter described and desires to store that aircraft in TAC Air's facility and TAC Air is willing to provide same, under the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the rents, terms, conditions and agreements hereinafter set forth, the parties hereto agree as follows:

1. **SUBJECT.** The subject of this Agreement is storage of the following aircraft: N911LP and N912LP, hereinafter the "Aircraft". Provided however, upon prior notice to TAC Air of the make, model and registration number thereof, and written consent from TAC Air, Customer may substitute another aircraft of same size for the one above identified which will then become the Aircraft subject to the terms and conditions of this Agreement.

2. **SERVICES PROVIDED.** During the term hereof and while the Aircraft is present at the Airport, TAC Air shall:

- a. Store the Aircraft in a hangar in common with other aircraft.
- b. Make available office space on Landlord's premises to be used for support functions of the Aircraft. The location of the 2 offices shall be located in Hangar 2 and consists of approximately four hundred (400) square feet.
- c. Provide aircraft towing services to remove and/or return the Aircraft to the hangar in which it is being stored.
- d. It is understood and agreed that TAC Air shall not be a guarantor or insurer of the Aircraft, its components, or any other property of the Customer left on or about the Airport.

3. TERM, RATES & FEES.

a. Subject to the other terms and conditions of this Agreement, this Agreement shall continue for twenty-four (24) months from the effective date of this Agreement.

b. The monthly charges shall be due and payable in advance on or before the first day of each month and without demand during the term hereof.

c. The monthly charges shall be due and payable by Customer in advance on or before the first day of each month and without demand during the term hereof. The monthly charge for aircraft storage is \$1,300.00 and the monthly fee for office rental is \$425.00.

e. The "effective date" of this Agreement shall be August 1, 2022.

f. Upon execution of this Agreement, Customer shall pay to TAC Air the first month's rent and fees plus any prorated rent and fees for any partial month preceding the effective date of this Agreement.

g. If any amount, due TAC Air under this Agreement is not received within five (5) days from its applicable due date, a late payment fee equal to five percent (5%) of the month's rent and fees shall be added to the amount due and owing by Customer. In addition, interest shall accrue and be due and payable on all unpaid sums at the rate of twelve percent (12%) per annum.

4. FUEL.

a. During the term of this agreement, all aviation fuel purchases made by Customer at Blue Grass Airport shall be from TAC Air.

b. Pricing for fuel purchased by Customer under this Agreement shall be calculated for each gallon delivered into Customer's Aircraft at TAC Air's cost of fuel, plus an "Into-Plane Fee" (ITP) as detailed below, plus all applicable taxes and/or governmental or airport mandated fees. The Into-Plane Fee will be \$1.60.

d. Unless otherwise agreed by the Parties, Buyer shall pay for Products with ACH, EFT or a preferred credit card acceptable to Seller at the time of purchase.

e. With prior credit approval from TAC Air, and at TAC Air's sole discretion, TAC Air may invoice Customer for fuels delivered under this Agreement immediately after each fueling performed by TAC Air.

5. OTHER CHARGES. In addition to the above fees, Customer agrees to pay, each month.

a. A Concession Recovery fee equal to 2% of the rental amounts specified in Section 3.c.

b. A Common Area Maintenance (CAM) fee equal to \$0.04 per square foot of all square footage inclusive of airplane, office, shop and cage space as applicable.

c. A Utility fee equal to \$120.00 per month.

d. An Environmental Fee equal to \$120.00 per month.

6. ESCALATION. At each anniversary of this Agreement, the charges and fees noted in Sections 3, 4 and 5 b. c. and d. are in effect immediately prior to said anniversary date automatically increased by 5%.

7. CUSTOMER'S PERMITTED USE AND ACTIVITIES.

a. The space in which the Aircraft is stored under this Agreement shall be used solely for the storage of said Aircraft and for the Customer's performance of routine maintenance on the Aircraft, as provided for under relevant sections of the Federal Aviation Regulations.

b. Access to the hangar by any outside vendor performing maintenance of said Aircraft will be subject to approval by TAC Air management. Approval shall not be arbitrarily denied.

8. PROHIBITED ACTIVITIES. The following activities by the Customer at the Airport and within the space are prohibited:

a. Storage of flammable materials or anything other than the Aircraft;

b. Aircraft maintenance, except as permitted under Paragraph 6 above;

c. Parking of automobiles in other than designated parking areas;

d. Subletting to any other individual, partnership, corporation or other

association,

9. AIRPORT REGULATIONS. Customer agrees to comply with applicable regulations as are from time to time promulgated by TAC Air or the Airport in addition to the following:

a. No aircraft engine shall be operated in any hangar;

b. Smoking is not permitted in any area where the Aircraft, service equipment,

or supplies are located including, but not limited to hangar areas and aircraft ramps;

c. No electrically operated devices shall be left energized and unattended at any time;

d. Any damage to the Aircraft or Airport property of which the Customer has knowledge shall be immediately reported to TAC Air.

10. GOVERNMENT REGULATIONS: Customer agrees to operate its Aircraft and conduct itself at the Airport in accordance with all laws and regulations promulgated by Federal, State and Local governments and to the extent allowable by law agrees to indemnify, defend and hold TAC Air harmless from any and all claims, fines, costs and expenses including reasonable attorney's fees which TAC Air may incur as a result of Customer's failure to so comply. This shall include, but not be limited to, environmental regulations, building codes, and occupational safety and health regulations. This shall not be deemed a waiver of sovereign immunity or any other third party defense available to Customer.

11. HOLD HARMLESS AND INDEMNIFICATION.

a. To the extent allowable by law Customer shall indemnify, defend and hold TAC Air harmless from any claims including costs and expenses and reasonable attorney's fees made against TAC Air as a consequence of Customer's activities at the Airport. This shall not be deemed a waiver of sovereign immunity or any other third party defense available to Customer. Further, to the extent allowable by law Customer shall indemnify TAC Air and assume responsibility for any damage to the property of TAC Air, the Airport or others resulting from Customer's activities on the Airport. This shall not be deemed a waiver of sovereign immunity or any other third party defense available to Customer.

b. Customer shall notify TAC Air in writing of any occurrence or accident or of any damage or loss sustained by it within two (2) days following Customer's knowledge of such occurrence or accident as a condition of any right of action or remedy which it may have against TAC Air under the terms of this Agreement or otherwise.

c. Customer hereby releases TAC Air from any liability for loss or damage to the Aircraft, its components or any other property of the Customer, unless such loss or damage is due to the negligence or willful act of TAC Air, its agents or employees. TAC Air in no event shall be liable to Customer for any indirect, incidental, or consequential damages.

12. INSURANCE.

a. During the term of this Agreement, Customer shall maintain policies of liability insurance covering its ownership, maintenance and operation of the Aircraft with minimum limits of \$1,000,000 Combined Single Limit for Bodily Injury and Property

Damage. Within thirty (30) days of the effective date of this Agreement, Customer shall provide to TAC Air a certificate of insurance certifying that such insurance is in full force and effect and that TAC Air will be notified in writing at least thirty (30) days before any such insurance is canceled or materially changed.

13. DEFAULT. Default shall consist of:

- a. Customer's failure to pay fees within ten (10) days of the due date;
- b. Customer's failure to comply with any of the terms of this Agreement or any rule or regulations promulgated by TAC Air or the Airport within ten (10) days after notice to Customer of such failure;
- c. Customer's failure to comply with any law or regulation of any governmental authority within ten (10) days after notice of such failure;

Any forbearance by TAC Air in exercising any right or remedy hereunder or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

14. REMEDIES ON DEFAULT.

a. On default, TAC Air, in addition to any other remedy at law or equity, shall have the right to remove the Aircraft from the space and store it at TAC Air's sole option at any other place, either indoors or outdoors, and hold Customer responsible for storage charges. Customer shall also be responsible for payment of:

- (1) All sums accrued through the date of termination;
- (2) The balance of all rentals, fees, or charges required to be paid by Customer through the end of the Term; and
- (3) The reasonable costs incurred by TAC Air in terminating this Agreement, recovering possession of, and re-renting the hangar space, or any portion thereof

b. On default, any sums of money then due and owing to TAC Air and any sums which shall accrue thereafter, shall constitute a lien on any property of Customer located at the Airport, and TAC Air shall take any action necessary and provided for by law, including public sale of said property, in order to enforce said lien.

15. ASSIGNABILITY. This Agreement may not be assigned in whole or in part by Customer.

16. MISCELLANEOUS PROVISIONS.

- a. This Agreement shall be deemed to have been executed and performed in

the State of Kentucky and shall be interpreted in accordance with the laws of the State.

b. Should TAC Air's underlying costs change, to include without limitation rental costs and property taxes, TAC Air reserves the right to pass through cost increases to Customer on a pro rata basis.

c. Should any provision of the Agreement be determined void or unenforceable, all other terms unaffected shall remain intact unless the intent of the Agreement can no longer be achieved.

d. This Agreement constitutes the entire Agreement between the parties and may not be modified except by a fully executed writing.

e. This Agreement shall bind the parties hereto, their heirs, executors, administrators, successors, and assigns.

f. Customer warrants that it has authority to enter into this Agreement.

17. **NOTICES.** All notices required under the terms of this Agreement shall be sent Certified Mail, Return Receipt Requested, and if delivery is unobtainable, then to the last known address, if not the same as set forth below, by regular mail.

TO TAC AIR:

Truman Arnold Companies  
d/b/a TAC Air  
100 Crescent Court, Suite 1600  
Dallas, TX 75201  
Attn: Vice President & COO

TO CUSTOMER:

Lexington-Fayette Urban County  
Government on Behalf of Lexington Police  
Department  
150 E. Main St.  
Lexington KY 40507  
Attn: Mark Brand

18. **CONFIDENTIALITY:** Except to the extent allowed by law, Customer shall not disclose any information relating to this Agreement to any person or entity, with the exception of Customer's legal counsel, aircraft insurance provider, or lender, however, only to the extent that lender requires to maintain a security interest in Customer's aircraft, without TAC Air's express written permission.

IN WITNESSETH WHEREOF, the parties have duly executed this Agreement, all as of the 15<sup>th</sup> day of March 2022.

TRUMAN ARNOLD COMPANIES  
D/B/A TAC Air  
Westley Williams  
General Manager

Lexington Chief of Police

SIGNATURE:




SIGNATURE:



Mayor LFUCG

SIGNATURE:

  
4/29/2022

---

Customer, by its execution, acknowledges receipt of a copy of this Agreement.