

## GROUND LEASE

STATE OF TEXAS           §  
                                     §  
COUNTY OF NUECES       §

THIS GROUND LEASE (Lease) is entered into by and between the CITY OF CORPUS CHRISTI, a Texas home-rule municipal corporation (City), and DLUGOSCH III, LLC, DBA THE TEXAN STORES (Texan), a Texas limited liability company. City and Texan sometimes will be collectively referred to as the "Parties" and in the singular "Party."

WITNESSETH:

WHEREAS, City is the owner of the Corpus Christi International Airport (Airport) located in Nueces County, Texas, the use and operation of which is governed by the Director of Aviation (Director);

WHEREAS, Texan desires to lease a certain parcel of land at the Airport for the purpose of developing a fuel station and convenience store (Facilities);

WHEREAS, subject to the terms and provisions in this Lease, City is willing to lease such a parcel of land to Texan and to grant specified rights and privileges in connection with this Lease; and

WHEREAS, this Lease is a non-aeronautical lease.

NOW, THEREFORE, for and in consideration of the premises and mutual covenants contained in this Lease and other good and valuable consideration, City leases to Texan the land and described and under the conditions outlined herein.

### 1. Definitions.

- a. "Airport" is the Corpus Christi International Airport located at 1000 International Drive, Corpus Christi, Texas.
- b. "Business Day" means any day of the year, except for Saturdays and Sundays, on which national banks are required or authorized by law to carry out banking transactions.
- c. "City Charter" means the foundational document of the City of Corpus Christi, establishing its governmental structure, powers, and procedures, and defining the rights

and responsibilities of the city and its residents. All actions under this Lease must comply with the City Charter.

- d. "Contamination Condition" means (i) activities in progress, actions or omissions in the Leased Property in breach of the Environmental Laws; (ii) Releases in or from the Leased Property; or (iii) any other condition or situation in the Leased Property that pursuant to the Environmental Laws results or may result in an obligation to characterize, remediate or clean-up.
- e. "Corpus Christi City Council" means the legislative body of the City of Corpus Christi, Texas, composed of elected officials responsible for enacting local ordinances, adopting the city budget, setting city policy, and overseeing city government operations.
- f. "Director" is the Director of Aviation.
- g. "Effective Date" means the 61st day following the date of final signature from the City of Corpus Christi.
- h. "Environmental Laws" means all Laws, either federal, state or local, currently or subsequently in force, governing or related to (i) health, safety, the protection or conservation of the Environment the conservation or use of natural resources; (ii) air, water, soil and subsoil pollution control and prevention; (iii) discharges, releases or possible releases of noise, odors or any other Hazardous Material to the Environment; (iv) the manufacturing, processing, generation, distribution, use, treatment, storage, disposal, cleaning, transportation or handling of pollutants and/or Hazardous Materials.
- i. "Facilities" are the completed convenience store and fuel stations.
- j. "Federal Aviation Administration" or "FAA" means the agency within the U.S. Department of Transportation responsible for regulating and overseeing all aspects of civil aviation in the United States, including air traffic control, aircraft certification, and airport safety and standards.
- k. "Fuel flowage fee" is the fee paid per gallon on all fuel delivered.
- l. "HAZMAT" means any contaminating, hazardous, industrial, oil based, radioactive, corrosive, reactive, explosive, flammable or infectious substance, material or toxic waste, either liquid, solid or gaseous, or any other component or derivative from said substances, material or waste, or any other substance, material or waste regulated, defined, characterized or referred to in the Environmental Laws or which may adversely affect

human health or the Environment or which can result in an obligation to characterize, clean-up or remediate.

- m. "Release" means the release, spill, discharge, leak, emission, filtration, pumping, injection, deposit, disposal, dispersion, stain or migration or release in any manner whatsoever, whether intentional or not, of any Hazardous Material, at, towards, through or in the air, soil, subsoil, surface water, underground water or property (including structures, buildings and constructions).
- n. "Remediation" means all necessary actions or group of measures in compliance with the Environmental Laws in order to: (i) clean, remove, remediate, treat, restore, contain, abate, cover or otherwise adjust pollutants and/or Hazardous Material to the internal or external environment; (ii) prevent or control the Release of pollutants and/or Hazardous Material so that it does not escape, endanger or threaten public health or Environmental welfare; or (iii) carry out remediation studies, research, restorations and post-remediation studies (or post-cleaning care), assessments, analysis, tests, and monitoring of, in or on the Leased Property.
- o. "Rent" is fixed ground rent plus fuel flowage fee, outlined in Section 5 below.
- p. "Spill Prevention Control and Countermeasures Plan" or "SPCC Plan" means a plan, required by federal and state law (e.g., 40 C.F.R. Part 112), outlining procedures to prevent, control, and clean up spills of oil or hazardous materials that could reach navigable waters.
- q. "Storm Water Pollution Prevention Plan" or "SWPPP" means a plan, required by federal and state law (e.g., Clean Water Act, NPDES), identifying potential storm water pollution sources and detailing practices to reduce or eliminate pollutants in storm water discharges from the premises.
- r. "Terminal Operations Manual" means the general operational guidelines for use of space granted to tenants under their agreement with the airport.
- s. "Texas Public Information Act" or "TPIA" means Chapter 552 of the Texas Government Code, governing public access to information held by governmental bodies in Texas. Tenant acknowledges its TPIA obligations if it is a governmental body or acting on its behalf.

2. Purpose.

- a. The purpose of this Lease is to enable Texan to utilize Premises for convenience store and fuel stations.
- b. Texan must be open to the public and operate 24 hours a day, seven days a week (24/7) and be open every day of the year, including holidays.

3. Premises.

- a. The premises consist of 8.0 acres of land situated on and comprising a portion of the Airport, specifically described and depicted on Exhibit A, attached hereto and incorporated herein (Premises). The Premises are leased on a "AS-IS" basis, with no obligation on the City to provide or construct any improvements or alterations, except as provided in this Lease.
- b. City also grants and conveys to Texan, its subtenants, and their respective employees, agents, contractors, guests, and invitees, in common with others:
  - i. An uninterrupted right of ingress and egress for pedestrian and vehicular traffic to/from the Premises to/from Premises to/from public roadways; and
  - ii. The right to connect to utilities and utility infrastructure and to undergo any construction necessary in connection with the lease of the Premises.

4. Operating Requirements

- a. The term of this Lease shall be for 40 years (Initial Term), effective on the 61st day following the date of final adoption by Corpus Christi City Council (Effective Date), unless earlier terminated as set out herein.
- b. The lease holder shall obtain a building permit within 18 months of the Effective Date of this Lease. If Texan fails to obtain a building permit within 18 months of the Effective Date, the Lease will terminate, and no further rent payments shall be due from Texan.
- c. Provided this Lease has not been terminated, Texan shall have the right to request one ten-year renewal upon written notice to City at least three months prior to the expiration of the then current term (Renewal Term), but no longer than 18 months prior to the expiration of the then current term. City retains the right to deny the request under this section. The City shall not unreasonably deny Texan's request for renewal. Any extension or renewal of this Lease shall be subject to all terms and provisions of this Lease.
- d. Holdover. Failure to timely surrender the Premises following written notice subjects Texan to a monthly holdover fee of 125% of the then-current fair market rental value for the Premises. Holdover shall not exceed 12 months after the expiration of the Lease.

- e. Prior to expiration of the ten-year renewal period referred to in 4c above, City and Texan shall negotiate in good faith upon a new lease for a convenience store between the Parties. If City negotiates a lease with a new party, Texan shall have the right of first refusal to meet or exceed the terms of that proposed third-party lease. If Texan desires to avail itself of the rights afforded under this subparagraph, Texan shall notify City within 12 months of the expiration of the Lease term of Texan's intent to negotiate in good faith a new lease and/or participate in the renegotiation process.

5. Rent.

- a. Rent payments shall comprise of a monthly fixed ground rent and fuel flowage fee (Rent).
  - i. Fixed ground rent payments will be based on airport appraisals conducted periodically and shall be adjusted accordingly as per all future appraised values. City reserves the right to adjust Texan's fixed ground rent payments in accordance with its operational and financial requirements and in accordance with its adopted policy for the Airport or FAA requirements. For purposes of determining the fair market value by appraisal, the values determined by the appraiser will be final.
    - (1) Fixed monthly rent payments shall be \$283.11 per acre (\$2,264.85 total) beginning on the Effective Date and continuing for a period of 12 months from the Effective Date, or until the issuance of a certificate of occupancy, whichever comes first. Upon the (i) expiration of 12 months or (ii) the issuance of the certificate of occupancy, the fixed monthly rent shall be \$544.43 per acre (\$4,355.45 total). Texan understands that these rates shall change upon future appraisals and shall reflect a rate at 100% of market rate.
    - (2) The next appraisal to affect the rent under this section shall be the appraisal conducted in 2033 and shall be adjusted no earlier than every five years after that through the termination or expiration of this Lease with a cap of a 3% increase per year over the preceding five-year period, not to exceed a total increase of 15% until the next appraisal.
    - (3) Fixed ground rental payments shall be adjusted as outlined above and the Director shall notify Texan in writing at least 30 days before the fixed ground rental payments are adjusted based on the most current airport appraisal.
  - ii. Fuel flowage fee is structured as follows:
    - (1) Effective Date through year eleven: \$0.02 per gallon
    - (2) Beginning of year twelve through year twenty-one: \$0.0250 per gallon
    - (3) Beginning of year 22 through year 31: \$0.03 per gallon
    - (4) Beginning on year 32 through 40: \$0.0350 per gallon

- b. Rent payments under this Lease are due on demand by the first day of each month, beginning on the Effective Date and then by the first of each month thereafter. The first Rent payment shall be prorated if the Effective Date falls on any day other than the first of a month.
- c. Rent payment must be made by electronic funds transfer or delivered to City of Corpus Christi, P.O. Box 9257: Corpus Christi, TX 78469-9257 referencing the invoice number. Failure to submit payment by the 10th day of each month will be assessed a late fee of \$200.00 per occurrence.

6. Improvements.

- a. During the terms of this Lease, Texan shall be permitted to develop and improve the Premises as it deems necessary for the use and enjoyment of the Premises for the purposes outlined in this Lease (Improvements).
- b. Texan shall undergo renovation and modernization of Facilities and Premises as needed including, but not limited to, interior and exterior finishes, fixtures, systems, and equipment. Such renovation and modernization shall, at a minimum, be executed to the standards and specifications consistently applied by Texan to its newest or most recently renovated facilities, as such standards may evolve from time to time.
- c. Texan is solely responsible for financing, design, development, construction, renovations, modernization, operations, and maintenance of all Improvements and Construction under this Lease.

7. Construction:

- a. New facilities include a fuel station and convenience store.
  - i. All exteriors for fuel station and convenience store shall be a stone and stucco design, subject to the written approval of Director. Director shall not unreasonably withhold approval.
  - ii. Convenience store must be a minimum of 2,000 square feet and must include restrooms with 24-hour access, handicap accessible stalls, multiple stalls, and baby changing stations in both the women's and men's restrooms.
  - iii. Fuel station must include a minimum of eight vehicle pump states under a single canopy in front of the convenience store facility and must include a separate rear or side-area with a minimum of four truck pump stations under a single canopy dedicated to semi-trailer truck traffic.
- b. Texan shall provide self-service air and water equipment on Premises and shall include self-service air and water equipment in construction plans.

- c. Texan shall not begin any construction without the prior written approval of the Director. Written request for approval must include a complete set of plans and specifications and the name of the contractor and subcontractors. Approval or disapproval will be provided in writing by the Director within 30 days of Texan's full and complete submission. Approval by the Director shall not be unreasonably withheld. Upon approval, Texan may be authorized to proceed at Texan's sole expense and risk, subject to compliance with any additional insurance, permitting, or other requirements necessary to be imposed on the project.
  - d. Prior to any construction, FAA Form 7460-1 'Notice of Proposed Construction or Alteration' must be filed, and the proposed construction must be deemed clear of all obstructions as to not impede the navigable airspace around the airport.
  - e. Construction in, at, on, or to the Premises shall be at the sole expense of Texan and in conformity with the requirements under this Lease.
  - f. Approval by the Director does not supersede any State, Federal, and City laws, rules, or regulations related to construction.
8. Utilities. Texan must pay costs of construction, connection to utilities, and the fees owed to each provider for gas, water, wastewater, electricity, internet (Wi-Fi), cable, telephone, or other utilities furnished to or used by Texan on the Premises. City represents that the infrastructure for gas, electricity, wastewater, water, internet (including Wi-Fi), cable, telephone, and other utilities are available at the Premises. Texan shall be solely responsible for the payment of all utility bills, fines, and fees, at the time they are due.
9. Trash services.
- a. Texan is responsible for collection and disposal of all trash and other refuse resulting from operation on Premises.
  - b. Texan shall prohibit piling of boxes, barrels, or other similar bulk materials in or within view from areas open to the public.
10. Operating Requirements.
- a. All operating expenses for the convenience store and fuel stations are at the sole cost and expense of the Texan.
  - b. Texan shall provide self-service air and water equipment.
  - c. Texan shall obtain and maintain appropriate liquor licenses for beer and wine sales. Texan shall provide a copy upon written request by Director.

- d. Texan shall obtain and maintain all health department permits and perform and pass regular inspections.
  - e. Convenience store shall provide hot food with to-go options, beer and wine sales, dry goods, snack and sundry products, clothing, beach items, camping items, and other typical convenience store offerings.
  - f. Convenience store shall include a beverage "grab & go" counter prominently positioned with full product offerings of breakfast and lunch items and beverages should include a full range of specialty hot beverages.
  - g. Fuel station shall offer a minimum of two suitable octane grades of unleaded fuel and diesel fuel.
  - h. Texan must accept at least three nationally recognized credit cards and debit cards at the fuel pumps and the convenience store.
  - i. The fuel station should provide sufficient parking for semitrailer trucks use but shall not allow for truck stop rest areas or overnight parking operations.
  - j. Fuel stations must include window washing clean-up stations at each fuel island.
  - k. Texan may offer, at its own discretion, restaurant, lottery sales, drive through food service, and other retail services.
11. Maintenance. Tenant shall be solely responsible, at its sole cost and expense, for all maintenance, repair, and replacement of the Premises and Improvements.
12. Signs. Texan may install signs or other corporate identification of the business on the Premises at its sole cost. Signs must comply with all federal, state, and local rules and ordinances for sign height, size, and placement. Texan shall prepare all required plans, analyses (e.g., visual impact, aeronautical studies, if required by the FAA, etc.), and public notices, and shall appear at all necessary public hearings and meetings. A proper form FAA 7460-1 Notice of Proposed Construction or Alteration must be filed and approved by the FAA prior to any sign placement.
13. Damages. Texan shall repair any and all damage caused to real or personal property of the City occurring on the Premises, including damage causes to the Improvements on Airport property as a result of willful or negligent acts or omissions of Texan, its officers, employees, contractors, subcontractors, or agents. If airport is required to repair any damages, there will be a 15% administrative fee in addition to the cost of repairs.
14. Security.
- a. Texan is responsible for providing security of its facilities and shall install and maintain



on-site video surveillance and a security system.

- b. Texan and its officers, employees, agents, contractors, subcontractors, and invitees must comply with all federal and local security regulations.

15. Insurance. Texan shall comply with the insurance requirements in Exhibit C and shall provide a copy of the Certificate of Insurance to Director at least 30 days before construction begins and annually thereafter.

16. Environmental Compliance. Texan shall use the Leased Property in compliance with each and every applicable Environmental Laws.

Hazardous Materials. Texan shall not use or generate Hazardous Materials in the Premises, unless such Hazardous Materials are necessary for its operations and same comply with the Permitted Uses and its use, generation, storage, final disposal, and handling in general is done in compliance with Environmental Laws. Texan hereby acknowledges that the use of any Prohibited Hazardous Materials at the Premises is strictly prohibited. Texan shall be solely and fully liable for the use, generation, storage, and final disposal of Hazardous Materials and/or Prohibited hazardous Materials in or from the Premises; in the understanding that, **Texan hereby undertakes to indemnify and hold City harmless against any action, claim, proceeding, fine, or penalty related to the use or presence of Hazardous Materials and/or Prohibited Hazardous Materials in the Premises.**

Upon City's request at any time, Texan shall deliver to City, within the following five days, a list including a detailed description of the Hazardous Materials used or to be generated by Texan in the Premises, as well as a copy of such certificates, permits, licenses, registrations, and/or authorizations that are required by the Texan or third parties to use generate, store or dispose of Hazardous Materials in or from the Premises.

Texan shall, at its own cost and expense, remove, clean up, and/or remediate as required any unauthorized Hazardous Materials and/or Prohibited Hazardous Materials pursuant to this Agreement and in accordance with Environmental Laws, that have been generated, stored, or otherwise released by Texan or by any of its employees, agents, suppliers, contractors, subcontractors or visitors, to City's entire satisfaction, but under no circumstances at a lower level or in a lower manner than such necessary to comply with the Environmental Laws, and that does not limit any future use of the Premises, or cause a restriction on the title to the Premises. To clarify, the clean-up or remediation level must be such that releases City in its capacity as owner of the Premises from any obligation or liability to conduct characterization, clean-up, or remediation of the Premises. Texan shall immediately carry out said works at any time as

necessary pursuant to Environmental Law and during the term of the Agreement as well as upon City's request or, in the absence of a specific request made by City, before Texan surrenders possession of the Premises to City pursuant to this Agreement. If Texan fails to carry out said works during the term of this Agreement, City shall, at its own discretion, and without waiving the exercise of any legal remedy available hereunder or under the Environmental Laws (including, but not limited to, any action to oblige Texan to perform said work), perform the above mentioned works, at Texan's expense; in the understanding that Texan shall be solely liable for the use, handling, disposal, and transportation of the Hazardous Materials and/or Prohibited Hazardous Materials, as well as for the damages the same may now or hereafter cause. Texan shall pay all expenses incurred by City with respect to said works, within ten days following the date of City's request of the corresponding reimbursement, along with the documents evidencing said expenses incurred.

Notice of Environmental Matters. Texan shall immediately inform City in writing of any of the following circumstances, within five days following the date of Texan's knowledge of the same:

- (a) Breach of the Environmental Laws related to or affecting or that may affect directly or indirectly the Premises, Texan, and /or Texan's operations in the Premises.
- (b) Any judicial or administrative proceeding in connection with Environment, health or safety matters, either federal, state, or local, including, but not limited to, any lawsuit, action, or claim related to a Contamination Condition, Releases, Hazardous Materials, Prohibited Hazardous Materials and/or wastewater discharge.
- (c) Releases affecting or may affect the Premises in any manner whatsoever or any Release known by Texan to come from a property adjacent to the Premises.

Contamination Condition. City shall be entitled to carry out inspections, studies, and/or verifications (including, but not limited to, conducting perforations and taking soil, subsoil, underground water and wastewater discharge samples), as well as the review of documentation related to the storage and final disposal of Hazardous Materials generated in the Premises in order to verify that the Premises is free from Contamination Conditions, Prohibited Hazardous Materials, and/or Hazardous Materials hereunder, and that it is in compliance with the applicable Environmental Laws. Said inspections, studies, and/or verifications shall be carried out on business days and hours, upon 24-hour prior notice; in the understanding that said inspections shall comply with Texan's internal safety regulations and policies.

All costs derived from said inspections, studies, and/or verifications shall be borne by City, except if the existence of an unauthorized Contamination Condition, Prohibited Hazardous Materials, or Hazardous Material hereunder is discovered in the Premises and is attributable to Texan, its employees, agents, suppliers, contractors, subcontractors, and/or visitors, in which case, Texan shall reimburse City any expense incurred by City pursuant to this Section, within the five days following the City's request of the corresponding reimbursement, along with the

studies evidencing the Contamination Condition, Prohibited Hazardous Materials, and/or Hazardous Material discovered.

Texan shall immediately implement, and in all circumstances within three days following the date on which a Condition of Contamination affecting or putting at risk the Premises is detected, at its own cost and expense, such remediation actions as may be necessary to eliminate any Contamination Condition caused directly or indirectly by Texan, its employees, agents, suppliers, contractors, subcontractors, and/or visitors, pursuant to and in compliance with the rules and regulations set forth in the Environmental Laws.

**Environmental Indemnity.** Texan hereby undertakes to defend and hold City, its affiliates, subsidiaries, shareholders, partners, directors, officers, and employees harmless from and against any loss, claim, remediation obligations, legal action, fine, or sanction, whether administrative, civil, or criminal imposed by any federal, state, or local authority or judicial actions claiming the reparation or compensation of any environmental damage ("Environmental Claim"), arising from any breach to the Environmental Laws or illegal acts on the part of Texan, its employees, agents, suppliers, contractors, subcontractors, and visitors which result in an environmental damage, as such term is defined in the Environmental Laws, in the Premises, or generated in connection with it. The indemnity contained in this Section shall survive the expiration or early termination of this Agreement.

**No Smoking Building.** Texan hereby acknowledges that smoking is prohibited both inside and within 50 feet from any entrance or air opening of the Premises. Texan shall provide "NO SMOKING" signs in the Premises.

Texan acknowledges that its employees, contractors, subcontractors, agents, representatives, and/or visitors shall be bound by the provision set forth in this Section.

17. Acceptance of Premises Disclaimer.

**Texan acknowledges that it is leasing the premises "AS IS" with all faults as may exist on the Premises, and that neither City, nor any employee or agent of City has made any representations or warranties**

as to the condition of such premises. Texan hereby waives any and all causes of action, claims, demands and/or damages based on any warranty, express or implied, including but not limited to any implied warranty of suitability for a particular purpose, any and all warranties of habitability, and any other implied warranties not expressly set forth in this Lease. Texan acknowledges and agrees that Texan has been provided, to its satisfaction, the opportunity to inspect the Premises for any defects as to the suitability of such property for the purpose to which Texan intends to use the Premises and is relying on its own inspection. Texan acknowledges that any and all structures and improvements existing on the Premises on the commencement date, if any, are accepted "AS IS" with any and all latent and patent defects and that there are no warranties, express or implied, by City with respect thereto. Texan acknowledges that it is not relying upon any representation, statement or other assertion by City with respect to any existing structures or improvements but is relying on its own examination thereof. The provisions of this section shall survive the expiration or earlier termination of this Lease.

18. Indemnity.

In consideration of allowing Texan to use the Premises, Texan covenants to fully indemnify, defend, save and hold harmless the City, its officers, agents, representatives and employees (collectively "Indemnitees") from and against any and all liability, loss, damages, claims, demands, suits and causes of action of any nature whatsoever asserted against or recovered from Indemnitees on account of injury or damage to person including, without limitation, premises defects, workers' compensation and death claims, or property loss or damage of any other kind whatsoever, to the extent any injury, damage or loss may be incident to, arise out of, be caused by or be in any way connected with, either proximately or remotely, wholly or in part: (1) Texan's performance pursuant to this Lease; (2) Texan's use of the

**Premises and any and all activities associated therewith pursuant to this Lease; (3) the violation by Texan, its officers, employees, agents or representatives of any law, rule, regulation, ordinance or government order of any kind pertaining, directly or indirectly, to this Lease; (4) the exercise of rights under this Lease; or (5) an act or omission on the part of Texan, its officers, employees, agents, or representatives pertaining to this Lease, and including all expenses of litigation, court costs, and attorneys' fees, which arise or are claimed to arise out of or in connection with the asserted or recovered incident.**

**Texan covenants and agrees that if Indemnitees, or any of them, is made a party to any litigation, pursuant to the causes outlined in items (1) through (5) in the above paragraph, against Texan or in any litigation commenced by any party other than Texan relating to this Lease, Texan shall, upon receipt of reasonable notice regarding commencement of litigation, at its own expense, investigate all claims and demands, attend to their settlement or other disposition, defend Indemnitees in all actions based thereon with legal counsel satisfactory to the City Attorney, and pay all charges of attorneys and all other costs and expenses of any kind whatsoever arising from any said liability, injury, damage, loss, demand, claim or action.**

19. Relationship of Parties. This Lease establishes a landlord/tenant relationship, and none other, and this Lease must be construed conclusively in favor of that relationship. In performing this Lease, both City and Texan will act in an individual capacity and not as agents, representatives, employees, employers, partners, joint venturers, or associates of one another. The employees or agents of either party shall not be, nor be construed to be, the employees or agents of the other party for any purpose whatsoever.
20. Sublease and Assignment. Texan understands and agrees that it shall not assign or sublease the Premises or any part thereof without obtaining the prior written consent of the City. Any attempted assignment or sublease without the express prior written consent of the City shall render this Lease null and void. The City shall not unreasonably withhold, condition, or delay its consent to any requested assignment. Notwithstanding the foregoing, if Texan seeks to assign this Lease to one of its principals or to a wholly-owned entity, City shall provide its consent, contingent upon Texan giving prior written notice of the proposed transfer at least 60 days in advance and the assignee assumes all obligations of the Texan under this Lease.

## 21. Default.

- a. If Texan fails to pay the rent due hereunder, pay utilities, perform required maintenance or fails to keep, perform, or observe any other provision, term, covenant, obligation, and/or condition of this Lease, City may, after 30 days written notice to Lessee, declare this Lease terminated and reenter the Premises and remove all persons without legal process and without prejudice to any of its other legal rights. Texan expressly waives (1) all claims for damages by reason of such reentry and (2) all claims for damages due to any distress warrants or proceedings of sequestration to recover the rent or possession of the Premises from Lessee. The City may not declare this Lease terminated if, within 30 days after notice of any default, Texan fully cures such default. The City's failure to issue this notice is not a waiver of its right to issue such notice.
- b. If City defaults in the performance of any covenant or agreement contained herein, which continues for 30 days after Lessee's written notice to the City as set out below, then Lessee may declare this Lease terminated and may vacate said Premises and owe no further rent and have no further obligations under this Lease.

## 22. Termination.

- a. Upon termination or expiration of this Lease, Texan shall:
  - i. **Decommissioning and Removal:** Decommission, remove, and properly dispose of all underground and above-ground storage tanks, fuel dispensing equipment, lines, pumps, monitoring wells, interceptors, separators, canopies, signage, and any other structures, improvements, or equipment primarily associated with the storage, handling, or dispensing of petroleum products or hazardous materials that were installed or used by Texan at the Premises.
  - ii. **Environmental Remediation:** Conduct a full environmental assessment of the Premises, including soil testing and groundwater testing, if a soil test indicated contaminated soil, to determine if any contamination or environmental impact has occurred as a result of Texan's operations or the presence of the removed facilities. Texan shall promptly, completely, and to City's satisfaction, remediate any and all contamination, spills, or environmental impacts (including, but not limited to, petroleum hydrocarbons, volatile organic compounds, and any other hazardous substances or wastes as defined by Environmental Laws) to levels acceptable to the relevant governmental authorities and City, ensuring the Premises are free of any potential environmental liabilities or conditions that could impede future development or use. This remediation shall be performed in strict compliance with all applicable federal, state, and local environmental laws, regulations, and agency requirements,

including those of the Texas Commission on Environmental Quality (TCEQ) and the U.S. Environmental Protection Agency (EPA).

- iii. **Restoration of Condition:** Backfill, compact, and pave or landscape the areas where tanks, lines, and other equipment were removed, ensuring the affected areas are restored to a clean, safe, and stable condition, reasonably consistent with the original grade and condition of the undeveloped portions of the Premises prior to the construction of the gas station, subject to City's reasonable approval.
  - iv. **Certification and Documentation:** Provide City with all necessary certifications, "no further action" letters, closure reports, remediation plans, and other documentation from applicable governmental authorities (e.g., TCEQ) demonstrating that all required decommissioning, removal, and remediation activities have been completed in full compliance with Environmental Laws and that the Premises are free from environmental contamination attributable to Tenant's operations or the facilities.
- b. **Clean and Clear Surrender:** Surrender the Leased Premises free and clear of all liens, encumbrances, and potential environmental liabilities arising from Texan's activities or the presence of the gas station infrastructure, in a broom-clean and safe condition, suitable for re-development or alternative use by City.
- c. **Exception to Termination Obligations:** If, upon the termination or expiration of this Lease, the City leases the Premises to a new tenant who will also operate a gas station, then Texan shall be relieved of the obligations set forth in section 22(a)(i) and 22(a)(iii). However, Texan remains fully responsible for and must complete the obligations set forth in sections 22(a)(ii) and 22(a)(iv), including conducting an environmental assessment, performing all necessary remediation, and providing the City with all required certifications and documentation demonstrating compliance with environmental regulations. If upon termination or expiration of this Lease, City does not lease the Premises to another gas station operator, then Texan shall be required to perform all obligations described in sections 22(a)(i) through 22(a)(iv). This includes the full decommissioning, removal, and disposal of all fuel station equipment and the complete restoration of the Premises to its original condition.
- d. Texan's obligations under this section shall survive the expiration or earlier termination of this Lease. City shall have the right to approve all contractors engaged by Texan for such work and to oversee the work to ensure compliance with this section.
23. **Modifications.** No changes or modifications to this Lease may be made, nor any provisions waived, unless the change, modification or waiver is made in writing and signed by persons authorized to sign agreements on behalf of each party.

24. **Inspection.** Any officer or authorized employee of the City may enter upon the Premises, at all reasonable times and with advance written or verbal notice, to determine whether Texan is providing landscaping and maintenance in accordance with a neat and orderly appearances.
- a. The Director must notify Texan in writing of any default in maintenance or repair. If the required maintenance or repair in the Director's notice to Texan is not commenced within 10 business days after receipt of such written notice, the Director may enter upon the Premises and perform the subject maintenance or repair.
  - b. Texan agrees to reimburse the Airport for its cost for maintenance and repair plus 15% administrative fee within 30 days after the Director's written demand therefore, together with copies of all paid receipts for such repairs and maintenance.
25. **Interpretation.** This Lease will be interpreted according to the Texas laws that govern the interpretation of contracts. Sole venue lies in Nueces County, Texas where this Lease was entered into and will be performed.
26. **Captions.** The captions utilized in this Lease are for convenience only and do not in any way limit or amplify the terms or provisions hereof.
27. **Casualty.** If the Premises become damaged due to weather event, fire, or other natural or man-made disaster, such that the Premises are not deemed safe for occupation by the City Building Official, and repairs are not completed within 90 days of the event of disaster, then either party may terminate this lease upon 30 days written notice to the other party, without penalty.
28. **Entirety Clause.** This Lease and the incorporated and attached exhibits constitute the entire agreement between the City and Lessee for the purpose granted. All other agreements, promises, representations, and understandings, verbal or otherwise, with reference to the subject matter hereof, unless contained in this Lease are expressly revoked, as the parties intend to provide for a complete understanding within the provisions of this Lease and its exhibits of the terms, conditions, promises, and covenants relating to Lessee's operations and the Premises to be used in the operations.
29. **Severability.**
- a. If, for any reason, any section, paragraph, subdivision, clause, provisions, phrase, or word of this Lease or the application hereof to any person or circumstance is, to any extent, held illegal, invalid, or unenforceable under present or future law or by a final Judgment of a court of competent Jurisdiction, then the remainder of this Lease or the application of said term or provision to persons or circumstances other than those as to which it is held illegal, invalid, or unenforceable, will not be affected thereby for it is the definite intent of the parties to this Lease that every section, paragraph, subdivision, clause, provision, phrase, or word hereof be given full force and effect for its purpose.



- b. To the extent that any clause or provision is held illegal, invalid, or unenforceable under present or future law effective during the term of this Lease, the remainder of this Lease is not affected.
- c. If any clause or provision is held illegal, invalid, or unenforceable, a clause or provision that is similar in terms to that clause or provision will be substituted for the clause or provision by the Court that found such clause or provision to be illegal, invalid, or unenforceable.
30. Notice. All notices, demands, requests or replies provided for or permitted under this Lease by either party must be in writing and must be delivered by one of the following methods: (i) by personal delivery; (ii) by deposit with the United States Postal Service as certified mail, return receipt requested, postage prepaid; or (iii) placement of notice to Lessee on the front door of the Premises. Notice by (i) and (iii) will be deemed effective upon delivery or placement and (ii) will be deemed effective 2 business days after deposit with the United States Postal service. All these communications must only be made to the following:

Corpus Christi International Airport  
Attn: Director of Aviation  
1000 International Dr.  
Corpus Christi, TX 78406

*With copy to:*

City of Corpus Christi  
Attn: City Attorney  
1201 Leopard Street, 5th Floor  
Corpus Christi, Texas 78401

*Notice to the Texan shall be sent to:*

Dlugosch III, LLC, dba The Texan Stores  
Attn: Brian Dlugosch, Owner/CEO  
PO Box 338  
Yorktown, TX 78164

31. Compliance with State and Federal Laws. The following provisions are in this contract for compliance with state and federal law, and the City does not opine on their validity or enforceability. Lessee shall bear the entire sole burden for complying with any of these clauses. Prior to the enforcement of any of the following clauses, the City will give at least 30 days notice of alleged violation thereof and an opportunity for the Lessee to be heard concerning the alleged violation, effect thereof on the City, and proposed remedial measures:

- Lessee warrants that it is and will continue to be an equal opportunity employer and hereby covenants that no employee or customer will be discriminated against because of race, religion, sex, age, disability, creed, color, or national origin.
  - Lessee shall provide all services and activities required to comply with the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, Public Law 93-1122, Section 504, and with the provisions of the Americans with Disabilities Act of 1990, Public Law 101-336 [S.933].
  - Lessee agrees to comply with Tex. Gov't Code § 2252.908 and submit Form 1295 to the City with the signed agreement. The Parties agree that the City is not responsible for the information contained in Form 1295.
  - In accordance with Tex. Gov't Code §2252.909, Lessee must include in each contract for the construction, alteration or repair of an improvement to this leased property a condition that the contractor execute a payment bond that conforms to Subchapter I, Chapter 53, Property Code and a performance bond equal to the amount of the contract and conditioned on the faithful performance of the contractor's work in accordance with the plans, specifications and contract documents. Lessee must provide the City with a notice of commencement at least 90 days prior to start of construction, alteration or repair that complies with Texas Gov't Code § 2252.909.
  - Lessee must develop and maintain their own Spill Prevention Control and Countermeasures Plan (SPCC), Storm Water Pollution Prevention Plan (SWPPP), and remove all HAZMAT spills as required by Federal, State, and Local laws.
32. Texas Public Information Act. The parties acknowledge that the City is a Texas governmental entity subject to the Texas Public Information Act (the "Act").
33. Publication. Texan must pay all newspaper publication costs, if any, for this Lease as required by the City Charter.

*Signatures on next page.*

CITY OF CORPUS CHRISTI

ATTEST:

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Peter Zaroni

City Manager

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Rebecca Huerta

City Secretary

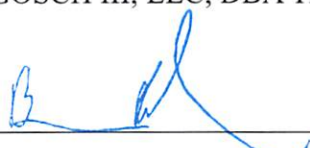
APPROVED AS TO FORM: \_\_\_\_\_, 2025

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Assistant City Attorney for the City Attorney

**LESSEE**

DLUGOSCH III, LLC, DBA THE TEXAN STORES



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Brian Dlugosch, Owner/CEO