

## TRANSIT OFFICE SPACE USER AGREEMENT

This User Agreement is entered into this 10<sup>th</sup> day of July, 2018, by and between, the City of Grand Island, hereinafter referred to as, CITY, and Senior Citizen Industries, Inc. hereinafter referred to as the TRANSIT PROVIDER.

In consideration of the mutual covenants, promises and representations herein, the parties agree as follows:

1. Office Space User Agreement. The CITY hereby provides to the TRANSIT PROVIDER the following described office space with all accessories incorporated there or affixed thereto:

*1016 Diers Avenue, Suite 119, Grand Island, Nebraska 68803*

2. TERM. The term of this User Agreement shall be for a period of one year commencing August 1, 2018 and ending July 31, 2019, subject however, to any prior termination as hereinafter provided.

3. RENT. The TRANSIT PROVIDER agrees to pay Three Thousand Three Hundred and Thirty Three Dollars and Thirty Four Cents (\$3,333.34) per month for the use of the office space, the said rental amount being due upon effective date of this User Agreement. Rent is payable at the office of Mid-Country Trading, LLC via mail at PO Box 139, Grand Island, Nebraska, 68802-0139

4. MAINTENANCE AND REPAIRS. The CITY shall pay for and furnish all maintenance and repairs to keep office spaces in good working order and condition. At the expiration or termination of this Lease, the premises will be returned to the CITY in good condition, reasonable wear and tear excepted.

5. REGISTRATION, LICENSE, TAXES, INSPECTION, FEES, EXPENSES. The TRANSIT PROVIDER shall pay all expenses incurred in the use and operation of the Office Space, including but not limited to, insurance, cleaning, maintenance, fines, inspections, assessments, sales or use taxes, if any, and all other taxes as may be imposed by law from time to time arising from TRANSIT PROVIDER'S use and operation of the Office Space. The CITY will reimburse the TRANSIT PROVIDER in accordance with the Agreement for Public Transit Services, dated June 2, 2016, and amended November 22, 2016.

6. USE AND OPERATION. The TRANSIT PROVIDER acknowledges receipt of the Office Space, and that the same is in condition satisfactory to TRANSIT PROVIDER'S purposes. The Office Space shall not be altered, marked or additional equipment installed without the prior written consent of the CITY in which case the TRANSIT PROVIDER will bear the expense thereof as well as the restoration expenses. The TRANSIT PROVIDER shall keep the Office Space free of all taxes, liens, and encumbrances. The TRANSIT PROVIDER shall not use or permit the use of Office Space in violation of any Federal, State, County or City laws, ordinances, rules or regulations, or contrary to the provisions of the insurance policy coverage. The TRANSIT PROVIDER, by acceptance of this User Agreement, agrees to abide by the terms hereof and to indemnify the CITY for any losses occurring as a result of such use in violation of said terms, laws, rules and ordinances.

7. INDEMNIFICATION AND INSURANCE. The TRANSIT PROVIDER agrees and will protect, indemnify and hold harmless the CITY and its assignees and agents from and against any and all losses, damages, injuries, claims, demands and expenses occasioned by, or arising out of, the condition, maintenance, use or operation of the Office Space including any accident or other occurrence causing or inflicting injury and/or damage to any person or property, happening or done, in, upon, or due directly or indirectly to this Lease, or the condition, maintenance, use or operation of the

Office Space by the TRANSIT PROVIDER or any person claiming through or under the TRANSIT PROVIDER.

TRANSIT PROVIDER shall, keep in full force and affect a policy of public liability and property damage insurance with respect to the Demised Premises and the business operated by Lessee and any subtenants or assignees. The coverage limits of the policy shall not be less than \$1,000,000 combined single limit per occurrence. The policy shall name the CITY and its mortgagee as additional insureds. The policy shall provide that the insurer shall not cancel or change the insurance without giving the thirty (30) days prior written notice. A copy of the policy or a certificate of insurance shall be delivered to MID-COUNTRY TRADING, LLC.

TRANSIT PROVIDER shall, keep all Office Space improvements, merchandise, fixtures and other personal property within the Demised Premises insured against fire, with extended coverage, the extent of at least eighty percent (80%) of the full insurable value thereof. The policy shall provide that the insurer will not cancel or change the insurance without giving thirty (30) days prior written notice. A copy of the policy or a certificate of insurance shall be delivered to MID-COUNTRY TRADING, LLC.

While the City only requires the insurance listed above, The City agrees that it will at all times refund the TRANSIT PROVIDER the expense to cover the Office Space in this User Agreement:

Liability	\$1,000,000.00 combined single limit per occurrence
Casualty	At least 80% of the full insurable value thereof
Rent	\$40,000 Annually

The TRANSIT PROVIDER agrees that it shall at all times and at its own expense pay for any deductibles. Insurance Deductibles will not be reimbursed by the City of Grand Island.

The TRANSIT PROVIDER shall provide and pay for any other insurance or bond that may be required by any governmental authority as a condition to, or in connection with, the TRANSIT PROVIDER'S use of the Office Space.

In the event the Office Space is involved in a crime incident, damaged, or destroyed by fire, the TRANSIT PROVIDER shall promptly notify CITY, in writing, within 24 hours and will also comply with all terms and condition entered in the insurance policies. The TRANSIT PROVIDER agrees to cooperate with the CITY, and the insurance companies in defending against any claims or actions resulting from the TRANSIT PROVIDER'S operation or use of the Office Space.

The Office Space shall not be used by any person or entity, in any manner or for any purpose that would cause any insurance herein specified to be suspended, canceled, or rendered inapplicable.

**8. DAMAGE TO OFFICE SPACE.** Should the Office Space or any part thereof be so damaged as to preclude usage for the purpose intended and should the TRANSIT PROVIDER be indemnified therefor pursuant to any insurance coverage required pursuant to paragraph 7 hereof in an amount not less than the full amount of the insurance coverage provided by Pinnacle Agency, or a City approved equal, this User Agreement shall terminate. However, should the TRANSIT PROVIDER be indemnified in an amount less than the full amount of the insurance coverage provided by the CITY, the TRANSIT PROVIDER will repair or replace the Office Space or the damaged part thereof and the proceeds of the insurance recovery shall be applied to such repair or replacement. Should the office space or any part thereof be damaged by any cause for which the TRANSIT PROVIDER makes no insurance recovery and should the Office Space or the damaged part thereof be capable of repairs, this User Agreement shall terminate and the TRANSIT PROVIDER shall immediately pay the CITY the reasonable value of the repairs to the property damaged, regardless of rentals paid or accrued.

9. TITLE. The TRANSIT PROVIDER acknowledges that this is an agreement to use the Office Space only and that the TRANSIT PROVIDER does not in any way acquire leasing or decision rights to the Office Space, under this agreement. Without the prior written consent of the CITY, the TRANSIT PROVIDER agrees not to do any act to encumber, convert, pledge, sell, assign, re-hire, lease, lend, conceal, abandon, give up possession of, or modify the Office Space.

10. WARRANTIES AND WAIVER. The TRANSIT PROVIDER uses the Office Space herein described in "as is" condition and agrees that the CITY had not made, and does not hereby make any representation, warranty or covenant expressed or implied with respect to the condition, quality, durability, capability, or suitability of the Office Space or against any patent or latent defects therein. The TRANSIT PROVIDER agrees that the CITY shall not be liable to the TRANSIT PROVIDER for any liability, claim, loss, damage or expense of any kind or nature caused directly or indirectly by the Office Space or the inadequacy thereof for any purpose, or for any deficiency or defect therein, or for the use or maintenance thereof, or for any repairs, servicing, adjustments, or expenses thereto or for any loss of business or for any damage whatsoever and howsoever caused.

11. ASSIGNMENT. Without the prior written consent of the CITY or any assignee of the CITY, the TRANSIT PROVIDER agrees not to sublet, mortgage, pledge, sell, assign or otherwise transfer or dispose of this User Agreement. The TRANSIT PROVIDER acknowledges and understands that the CITY may assign this User Agreement and that such assignee shall be entitled to all of the benefits of this User Agreement in the place of the TRANSIT PROVIDER. In connection therewith, the TRANSIT PROVIDER agrees this User Agreement and Office Space used there under will be subjected to any rights and interest in and to said Office space under any contract the CITY has with another regarding title or interests in title; to accept the directions, demands or consents of such assignee in place of those of the CITY; to surrender Office Space only to such assignee; to pay all rent hereunder as directed by such assignee.

12. DEFAULT. In any of the following default events:

- 1) Failure to pay any rent or sum herein provided when the same are due and payable and such default continues for a period of thirty (30) days after receipt of notice thereof of TRANSIT PROVIDER;
- 2) Failure to comply with any terms or conditions hereof;
- 3) A proceeding in insolvency or receivership by or against the TRANSIT PROVIDER or its property, or in the event lessee suspends business, makes an assignment for the benefit of creditors, or if an attachment be levied or tax lien filed against the Office space, or
- 4) The CITY may, at its option and without prejudice to any other rights it may have:
  - a) Take possession of and/or occupy Office Space and for the purpose thereof may enter the premises on which Office Space is located and remove TRANSIT PROVIDER without court order or other process of law. Damages occasioned by such taking being expressly waived by the TRANSIT PROVIDER;
  - b) May (but need not) use Office Space or any portion thereof for such period, and to such persons or entities as the CITY shall elect and shall not affect in payment of the rent and other obligations due from TRANSIT PROVIDER to the MID-COUNTRY TRADING, LLC hereunder by acceleration or otherwise;
  - c) May (but need not) relocate Office Space or any part thereof without demand or notice of intention;

- d) May deduct all costs and expenses in connection with such retaking, including insurance, repairs, storage, renting or sale of Office spaces from the proceeds derived from such renting or sale;
- e) Terminate TRANSIT PROVIDER'S rights hereunder as to Office Space;
- f) Accelerate rent for the lease term as provided in paragraph 2 and 3 hereof and recover the same and all other damages as herein or by law provided by legal proceedings.

No right or remedy conferred upon or reserved to the CITY by this User Agreement shall be exclusive of any other right or remedy herein or by law provided; all rights and remedies conferred upon the CITY by this User Agreement or by law shall be cumulative and in addition to every other right and remedy to.

13. CONSTRUCTION. This User Agreement shall be construed and determined in accordance with the laws of the State of Nebraska. Any provision herein prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remaining provisions of the User Agreement. Words and phrases herein, including any acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to the context.

14. TIME IS OF THE ESSENCE. Time is of the essence of this Lease. However, the CITY's failure at any time to require strict performance by the TRANSIT PROVIDER of any provisions herein shall not waive or diminish CITY's right to thereafter demand strict compliance therewith or with other provisions of this User Agreement and written waiver by the CITY of any default hereunder shall not constitute a waiver of any other default.

15. ENTIRE AGREEMENT. This User Agreement contains the whole agreement of the parties. None of the covenants, provisions, terms or conditions of this User Agreement shall be in any manner modified, waived, abandoned or amended except by a written instrument duly signed by the parties or their assignee and delivered to the CITY and the TRANSIT PROVIDER or their assignee.

16. BINDING. Each and every covenant and agreement herein contained shall extend to and be binding upon the respective successors, heirs, administrators, executors and assigns of the parties hereto except as may be modified in paragraph 11 or 17 hereof.

17. NOTICE. Notices as provided for in this User Agreement shall be given to the respective parties or their assignees at their respective addresses designated herein unless there is notification of the parties to the other, in writing, of a different address. Such notice shall be deemed to be given and received when deposited in the United States mail, postage prepaid, addressed as herein designated.

IN WITNESS WHEREOF, the parties have duly executed this User Agreement on the day and year first written above.

CITY

By: 

Date: 7/10/2018

  
Asst. City Attorney

TRANSIT PROVIDER

By: 

Date: 27 July 2018