

**MARION COUNTY, KANSAS  
LEASE FOR COMMERCIAL RENTAL PURPOSES  
MARION COUNTY LAKE, KANSAS**

**THIS LEASE** is made on behalf and between Marion County, Kansas, hereinafter referred to as County, and \_\_\_\_\_, duly organized and existing under the laws of the State of Kansas, with its principal office at \_\_\_\_\_, hereinafter referred to as the Lessee.

**WITNESSETH:**

That the County for the consideration hereinafter set forth, hereby leases to the Lessee, the property identified in **EXHIBIT "A"**, attached hereto and made a part hereof, hereinafter referred to as the premises, for the following purposes: Lessee shall construct units to be rented by Lessee to the public on a short term basis, as limited hereafter.

**THIS LEASE** is granted subject to the following conditions:

**1. TERM**

Said premises are hereby leased for a term of Ninety-Nine (99) years, beginning \_\_\_\_\_ and ending \_\_\_\_\_.

**2. CONSIDERATION**

a. The rent due to the County in consideration of this lease shall be calculated, by the Lessee. The total gross receipts for each rental payment period will be multiplied by \_\_\_\_\_% and the resulting total due payable within thirty days to the order of the County.

- (1) Gross receipts are defined as the total of the lessee's receipts from business operations conducted on the premises. No reductions are permitted except taxes collected for direct remittance to a taxing authority.
- (2) The rental payment shall **be annually with the first** payment due January 1, 2012. The rental year will begin on the date of this lease and end on December 31. For each rental year thereafter, the year will begin on January 1 and end on December 31.

(3) RENT PAYMENT CALCULATION FORM

Reporting period \_\_\_\_\_  
a) Gross receipts for this period: \$ \_\_\_\_\_  
b) Rent rate: \_\_\_\_\_% x \_\_\_\_\_  
c) Amount due (a x b) \$ \_\_\_\_\_

*should not let it go past due*

b. All rent due under the terms of this lease must be paid on or before the date they are due. Interest shall be charged for the late payment of debts owed to the County on any portion of a debt that is more than 90 days past due. The provisions will be implemented as follows:

- (1) The County will impose an interest charge, at the rate of \_\_\_% per annum on late payment of rent more than 90 days past due. Interest will accrue from the due date.
- (2) All payments received will be applied first to any accumulated interest and then to any unpaid rental balance.

**3. NOTICES**

All correspondence and notices to be given pursuant to this lease shall be addressed, if to the Lessee, to what address and, if to the County, \_\_\_\_\_, or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelop, addressed as foresaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.

**4. AUTHORIZED REPRESENTATIVES**

Except as otherwise specifically provided, any reference herein to County shall include its duly authorized representatives. Any reference to "Lessee" shall include sub-lessees, assignees, transferees, and its duly authorized representatives.

**5. USE AND DEVELOPMENT OF THE PREMISES**

a. The premises may be occupied and used by the Lessee or duly authorized agents, sub-lessees, assignees, or transferees solely for the conduct of business in connection with the rental of units on a short term basis, as described hereinafter, for the general use of the public.

7 b. No structure may be erected or altered upon the premises unless and until said improvements have been approved in writing by the County. The County may require the Lessee, upon completion of each of the proposed improvements, to furnish a complete "as built" site plan and "as built" construction plan for all facilities, *with certification that all*

c. The use and occupation of the premises shall be subject to general supervision and approval of the County. Modifications to said improvement plan must be approved in writing by the County prior to implementation of the change.

d. All structures and equipment furnished by the Lessee shall be and remain the property of the Lessee, except as otherwise provided in the Condition on RESTORATION.

## **6. CONDITION OF PREMISES**

a. The Lessee acknowledges that it has inspected the premises, knows its' condition, and understands that the same is leased without any representations or warranties whatsoever and without obligation on the part of the County to make any alterations, repairs, or additions thereto.

## **7. RATES AND PRICES**

a. The rates and rentals charged by the Lessee or its sub-lessees shall be reasonable and comparable to rates charged for similar units in the area.

## **8. PROTECTION OF PROPERTY**

The Lessee shall be responsible for any damage that may be caused to property of the County by the activities of the Lessee under this lease and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any causes. Any property of the County damaged or destroyed by the Lessee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Lessee to the satisfaction of the County or at the election of the County, reimbursement may be made therefore by the Lessee in an amount necessary to restore or replace the property to a condition satisfactory to the County.

## **9. INDEMNITY**

The County shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the Lessee, or for damages to the property or injuries to the person of the Lessee's officers, agents or employees or others who may be on the premises at their invitation or the invitation of any one of them, and the Lessee shall hold the County harmless from any and all such claims not including damages due to the fault or negligence of the County or its contractors.

## **10. INSURANCE**

a. At the commencement of this lease, the Lessee will obtain from a reputable insurance company liability insurance. The insurance shall provide an amount not less than that which is prudent, reasonable and consistent with sound business practices, and in no event less than \$\_\_\_\_\_. The Lessee shall require its insurance company to furnish to the County a copy of the policy or a certificate of insurance evidencing the purchase of such insurance.

*What if  
G. vacate  
lease*

**11. RESTORATION**

On or before the expiration of this lease or its termination by either party, the Lessee shall vacate the premises. Lessee shall, at ~~Lessee's~~ option, remove the property of the Lessee therefrom, and restore the premises to a condition satisfactory to the County, or at Lessee's option, the County shall pay Lessee the then fair market value of the improvements. Fair market value shall be determined by a mutually agreed upon appraiser, or if agreement cannot be reached, each party shall select an appraiser and the two appraisers shall select a third appraiser. The three shall determine fair market value hereunder.

**12. NON-DISCRIMINATION**

The Lessee shall not discriminate against any person or persons because of race, color, age, sex, handicap, national origin, or religion in the conduct of operations on the leased premises.

**13. TAXES**

Payment of any and all taxes imposed by the state or its political subdivisions upon the property or business of the Lessee on the premises is the responsibility of the Lessee.

**14. SUBJECT TO EASEMENTS**

This lease is subject to all existing easements, easements subsequently granted, and established access routes for roadways and utilities located, or to be located, on the premises, provided that the proposed grant of any new easement or route will be coordinated with the Lessee, and easements will not be granted which will, in the opinion of the County, interfere with the developments, present or proposed, by the Lessee. The Lessee will not close any established access routes without written permission of the County.

**15. TRANSFERS, ASSIGNMENTS, SUBLEASES**

a. Without prior written approval of the County, the Lessee shall neither transfer nor assign the lease of a controlling interest therein (including, without limitation, mergers, consolidations, reorganizations, or other business combinations), nor sublet the premises or any part thereof, nor grant any interest, privilege, or license whatsoever in connection with this lease, nor shall this lease be assignable or transferable by process or operation of law including, but not limited to, insolvency proceedings, bankruptcy, or intestacy, or in any other manner whatever. Approval by the County shall not be unreasonably withheld.

(1) Failure to comply with this condition or the procedures described herein shall constitute a material breach of this lease for which this lease may be revoked

immediately by the County, and, the County shall not be obligated to recognize any right of any person or entity to an interest in this lease or to own or operate the facilities authorized hereunder acquired in violation hereof.

- (2) The Lessee shall advise the person(s) or entity proposing to enter into a transaction described in Subsection a. above that the County shall be notified and that the proposed transaction is subject to review and approval by the County. The Lessee shall request in writing the County's approval of the proposed transaction and shall promptly provide the County all relevant documents related tot the transaction, and the name(s) and qualification of the person(s) or entity involved in the proposed transaction.

b. The County, in exercising discretion to approve or disapprove transfer, assignments, or subleases, shall among other matters, take into consideration the management qualifications of the individual or entities that would thereby obtain a controlling interest in the facilities or services authorized hereunder, the experience of such individuals or entities with similar operations, and the ability of such individuals or entities to operate the operations authorized hereunder in the public interest.

c. The Lessee will not sponsor or participate in timeshare ownership of any structures, facilities, accommodations, or personal property on the premises. The lessee will not subdivide nor develop the premises into private residential development.

## **16. CLOSURE, REVOCATION AND RELINQUISHMENT**

a. This lease may be relinquished by the Lessee by giving six months prior to written notice to the County in the manner prescribed in the Condition on **NOTICES**.

b. In addition to the above right of revocation, if the rent or other payments provided to be paid by the Lessee or any part thereof shall be in arrears and unpaid for ~~ninety~~ (90) days after the same shall become due, then, and in such case, the County may elect to revoke this lease by notification in writing to the Lessee.

## **17. HEALTH AND SAFETY**

a. The Lessee shall keep the premises in good order and in a clean, sanitary, and safe condition and shall have the primary responsibility for ensuring that any sub-lessees and concessionaires operate and maintain the premises in such a manner.

b. The County, upon discovery of any hazardous condition on the premises that presents an immediate threat to the health and/or danger to life or property, will so notify the Lessee and will require that the affected part or all of the premises be closed to the public until such condition is corrected and the danger to the public eliminated. If the condition is not corrected within the time specified, the County will have the option to: (1) correct the hazardous conditions and collect the cost of repairs from the Lessee; or, (2) revoke the lease. The Lessee will be obligated to pay rental, notwithstanding any interruption or suspension of activities.

## **18. PUBLIC USE**

No attempt shall be made by the Lessee, nor any of its sub-lessees to forbid the full use by the public of the premises and of the water areas of the project, subject, however, to the authority and responsibility of the Lessee to manage the premises and provide safety and security to the visiting public.

## **19. ACCOUNTS AND RECORDS**

a. The Lessee shall maintain complete and accurate records and no later than 120 days following the end of the Lessee's fiscal year shall submit to the County reports and data for the preceding year to include a financial statement for the activity covered by the lease.

b. The County shall have the right at any time to verify all financial reports and copy the books, correspondence, memoranda, income tax returns and other records of the Lessee and sublessees, if any, and of the records of proprietary or affiliated companies, if any, related to this lease during the period of the lease.

## **20. ENVIRONMENTAL PROTECTION**

a. Within the limits of their respective legal powers, the parties to this lease shall protect the project against pollution of its air, ground, and water. The Lessee shall comply promptly with any laws, regulations, conditions, or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any Federal, state, interstate, or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the premises is specifically prohibited. Such regulations, conditions, or instructions in effect or prescribed by the Environmental Protection Agency, or any Federal, state, interstate, or local governmental agency, are hereby made a condition of this lease.

b. The Lessee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs arising from the Lessee's activities, the Lessee shall be liable to restore the damaged resources.

## **21. SOIL AND WATER CONSERVATION**

The Lessee shall maintain, in a manner satisfactory to the County, all soil and water conservation structures that may be in existence upon said premises at the beginning of, or that may be constructed by the Lessee during the term of, this lease, and the Lessee shall take appropriate measures to prevent or control soil erosion within the premises. Any soil erosion occurring outside the premises resulting from the activities of the Lessee shall be corrected as directed by the County.

**22. TRANSIENT USE**

a. Rental of units shall be limited to a period not longer than thirty (30) days during any sixty (60) consecutive day period. The Lessee will maintain a ledger and reservation system for the use of units, said system to be acceptable to the County.

b. Occupying any lands, buildings, or other facilities within the premises for the purpose of maintaining a full- or part-time residence is prohibited, except Lessee shall be entitled to maintain an office and laundry facility in one unit.

**23. SPECIAL CONDITIONS**

a. Plans for any future development and construction disturbance proposed by the Lessee within the lease area will be subject to full review by the County/*Planning + Zoning*

b. Lessee, its assignees or transferees, shall have the first option to lease, build units upon, and rent out units on any other property within the Marion County Lake area in the event the County determines to lease its land for similar purposes. The County shall grant 90 days notice to Lessee in the event the County receives a written bona fide offer to lease property from a third party and the Lessee shall have the right to meet said offer within said 90 day period by providing written notice of its intention to do so. If Lessee decline, County may proceed with transaction with third party.

THIS LEASE is executed this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

Marion County, Kansas, by:

Lessee, by:

\_\_\_\_\_  
Marion County Clerk

\_\_\_\_\_  
Title

\_\_\_\_\_  
Marion County Commission Chairman

\_\_\_\_\_  
Title

**ACKNOWLEDGMENT**

STATE OF KANSAS        )  
                                  ) ss  
COUNTY OF MARION    )

**BEFORE ME** a Notary Public in and for Marion County, personally appeared and to me known to be the identical persons and officers whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the said instrument by authority of Marion County, Kansas, for the purposes therein expressed as the act and deed of Marion County, Kansas.

GIVEN under my hand and seal, this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
Term Expires: \_\_\_\_\_

(Seal)



**ACKNOWLEDGMENT**

STATE OF KANSAS        )  
                                  ) ss  
COUNTY OF MARION    )

**BEFORE ME** a Notary Public in and for Marion County, personally appeared and to me known to be the identical persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the said instrument for the purposes therein expressed as the act and deed of \_\_\_\_\_.

**GIVEN** under my hand and seal, this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
Term Expires: \_\_\_\_\_

(Seal)

**EXHIBIT "A"**  
**MARION COUNTY, KANSAS**  
**LEASE DATED \_\_\_\_\_**  
**Legal Description**

Holub-Commercial