

AGREEMENT FOR THE OPERATION OF A  
FOOD AND BEVERAGE CONCESSION

BETWEEN

CASPER / NATRONA COUNTY INTERNATIONAL AIRPORT

AND

CHARLIE T'S  
P.O. BOX 343  
HULETT, WY 82720

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FOOD AND BEVERAGE CONCESSION AGREEMENT

- Charlie T's, LLC -

**Article 1  
General Agreement**

THIS AGREEMENT made and entered into this 1<sup>st</sup> day of November, 2008, by and between the Board of Trustees of Casper / Natrona County International Airport, County of Natrona, State of Wyoming, a corporate body, hereinafter referred to as the "LESSOR", and Charlie T's, LLC, hereinafter referred to as the "CONCESSIONAIRE".

PRELIMINARY RECITALS

WHEREAS, the Lessor is the owner and operator of Natrona County International Airport, an airport situated in Casper, Wyoming (the "Airport"); and

WHEREAS, Concessionaire desires to lease from Lessor space in the Airport Terminal Building for use as an Airport Food and Beverage Concession; and

WHEREAS, Lessor deems it advantageous to the operation of its Airport to grant the Concessionaire use of the Leased Premises with the rights and privileges as herein set forth.

NOW, THEREFORE, for and in consideration of the rents, fees, covenants, and agreements contained herein, and for other good and valuable consideration, it is mutually agreed and understood between the Lessor and the Concessionaire the following.

**Article 2  
Definitions**

The following words and phrases, wherever used in this Agreement, shall, for the purpose of this Agreement, have the following meaning:

- 2.1 Gross Receipts - the aggregate amount of all sales made, or if exchanged, for services or items of comparable value as if the same had been sold for cash, including employee transactions. Gross receipts shall not include any federal, state, or municipal taxes, or other similar taxes separately stated or imposed.

**Article 3  
Term**

The term of this Agreement shall be for a period of five (5) years commencing in full force and effect on the 1<sup>st</sup> day of November, 2008, through the 31<sup>st</sup> day of October, 2013, unless sooner terminated or canceled as herein provided.

**Article 4  
Leased Premises**

Lessor, in consideration of the rent herein received, and of the agreement and conditions herein contained on the part of the Concessionaire to be kept and performed, leases unto the Concessionaire and Concessionaire

hereby rents and leases from Lessor the following.

- 4.1 Approximately One Thousand Nine Hundred Twenty Four (1,924) square feet of Airport Terminal Building space as designated on Exhibit "A", hereinafter referred to as the "Leased Premises".
- 4.2 Certain articles of personal property, fixtures, and equipment as described in Exhibit "B", hereinafter referred to as the "Equipment".

All exhibits identified herein are attached hereto and made a part hereof.

## **Article 5 Fees and Rentals**

During the term of the Agreement, Concessionaire agrees to pay to Lessor rent for the use of the Leased Premises, and for the rights and privileges herein granted by Lessor, an amount equal to five percent (5%) of Concessionaire's gross receipts. Payment of said amounts shall be considered rent and not a percentage of gross profits. If Concessionaire's monthly % of gross payment is equal to or greater than said monthly minimum guarantee, Concessionaire shall pay the % of gross due. In the event that Concessionaire's monthly % of gross payment is less than said monthly minimum guarantee, Concessionaire shall pay to Lessor said monthly minimum guarantee.

No demand for rent or fees need at any time be given, and it shall be the duty of Concessionaire to pay all monies when due. Payments received later than the 15<sup>th</sup> day of the month are subject to interest in the amount of 1½% per month. The implementation of the interest provision shall not preclude the Lessor from terminating this Agreement for default in the payment of rentals as specified in Article 12, *Defaults and Remedies*.

Should a check from the Concessionaire be dishonored or returned by Lessor's bank for any reason, Lessor shall be entitled to apply, in addition to the above assessments, a service charge of fifty dollars (\$50.00) for each such occurrence; however, the failure of Lessor to enforce timely payment of the rent shall not be deemed in any way to be a waiver of any terms and provisions of this Agreement.

## **Article 6 Reporting**

- 6.1 Monthly Report and Payment - Within ten (10) days after the end of each month Concessionaire shall furnish to Lessor a report, in a format approved by Lessor, of Concessionaire's gross receipts during the prior month.
- 6.2 Yearly Financial Statement - In addition to each monthly report required herein, a certified yearly financial statement of gross receipts shall be furnished to Lessor by Concessionaire within sixty (60) days after the close of Concessionaire's fiscal year.
- 6.3 Business Records - Concessionaire will keep or cause to be kept true, accurate, and complete records of business conducted. Concessionaire further agrees that Lessor shall have the right to examine all pertinent records at any and all reasonable times for the purpose of determining the accuracy thereof. In the event that Lessor has cause to believe there is a discrepancy between gross receipts reported by the Concessionaire and actual gross receipts, Lessor may select a reputable certified public accountant to perform an audit of Concessionaire's business as is pertinent to the Airport. If a discrepancy is found in favor of Lessor, Concessionaire will repay said discrepancy plus interest at a rate of eighteen percent (18%). In addition, if said discrepancy is greater than three percent (3%) of Concessionaire's annual gross

receipts during the period of discrepancy as determined by the audit, the full cost of the audit shall be borne by Concessionaire.

## **Article 7 Rights and Privileges of Concessionaire**

Subject to the terms and conditions hereinafter set forth, the Concessionaire is hereby given the following rights and privileges.

- 7.1 Specified Operations - Concessionaire is hereby granted the right to operate food and beverage operations in the Leased Premises, and shall be permitted to sell therein food and beverages and other such items in the Leased Premises as may be mutually agreed upon from time to time between the Lessor and Concessionaire. Concessionaire agrees not to engage in any other activities or business on the Leased Premises or within the confines of the Airport property other than those activities specifically permitted under this Agreement or agreed to by Lessor in writing.
- 7.2 Installation of Equipment and Fixtures - Concessionaire shall have the right to install, maintain, and operate at its own expense: machinery; equipment; facilities; phone, fax and wireless communication equipment; and trade fixtures in or upon the Leased Premises.

Concessionaire shall be entitled, during the term of this Agreement, to remove from the Airport or any part thereof, all machinery, equipment, and trade fixtures placed, installed, or constructed thereon by it; provided, however, that the Leased Premises shall be restored by Concessionaire in such a manner that such space is not materially damaged. Said structures, improvements, alterations, or additions not removed as specified herein shall become part of the realty upon which they are erected and title thereto shall vest at no cost to the Lessor unless a prior written agreement is granted by the Airport Director. At the expiration of this Agreement or sooner termination, Lessor shall have the right to remove or have removed at the expense of Concessionaire all equipment, fixtures, improvements, and systems installed by Concessionaire that Concessionaire has not removed, and Concessionaire agrees to pay the Lessor for such expense within fifteen (15) days upon receipt of an invoice.
- 7.3 Ingress and Egress - Subject to rules and regulations governing the use of the Airport as may be established by the Airport Manager, the Concessionaire, its employees, suppliers of materials, furnishers of service, subleases, business visitors, and invites shall have the right of ingress and egress to and from the Leased Premises.
- 7.4 Procurement of Materials and Supplies - Concessionaire, in conjunction with the exercise by it of any of the rights and powers granted to it herein shall have full right to procure at the Airport or elsewhere all materials, equipment, supplies, and products from any person of its own choice, and no additional charges, fees, or tolls shall be charged by Lessor, directly or indirectly against Concessionaire for any right or privilege granted to Concessionaire by this Agreement.
- 7.5 Quiet Enjoyment - The Lessor covenants that upon paying the rent and performing the covenants and conditions herein contained, the Concessionaire shall peacefully and quietly have, hold, and enjoy the Leased Premises for the term of this Agreement. The Concessionaire agrees that temporary inconveniences, such as noise, disturbances, traffic detours and the like, caused by or associated with the construction of Airport improvements or Airport events shall not constitute a breach of quiet enjoyment of the Leased Premises. The Concessionaire further agrees not to disturb Lessor or any other tenant of the Airport by creating or permitting any disturbance or other unusual noise or other undesirable condition on or about the Airport.

7.6 Installation of Equipment and Fixtures - Concessionaire shall have the right to install, maintain, and operate at its own expense: equipment; phone, fax and wireless communication equipment; and trade fixtures in or upon the Leased Premises, understanding that no material alterations or changes shall be made in the Leased Premises without the prior written consent of Lessor, said consent not to be unreasonably withheld.

Concessionaire shall be entitled, during the term of this Agreement, to remove from the Airport or any part thereof, all equipment and trade fixtures placed, installed, or constructed thereon by it; provided, however, that the Leased Premises shall be restored by Concessionaire in such a manner that such space is not materially damaged. Said structures, improvements, alterations, or additions not removed as specified herein shall become part of the realty upon which they are erected and title thereto shall vest at no cost to the Lessor unless a prior written agreement is granted by the Airport Manager. At the expiration of this Agreement or sooner termination, Lessor shall have the right to remove or have removed at the expense of Concessionaire all equipment, fixtures, improvements, and systems installed by Concessionaire that Concessionaire has not removed, and Concessionaire agrees to pay the Lessor for such expense within fifteen (15) days upon receipt of an invoice.

7.7 Advertisement of Airport Food and Beverage Concession - Concessionaire has the right to identify and advertise its food and beverage concessions in an equal or comparable manner to that of other terminal building businesses, said method and location of advertising to be approved by the Airport Manager.

## **Article 8 Rights and Privileges of Lessor**

In addition to other rights and privileges, the Lessor has the following rights and privileges:

8.1 Airport Development - The Lessor has the right, but shall not be obligated to Concessionaire, to develop or improve the landing areas and other portions of the Airport as it sees fit, regardless of the desires or views of the Concessionaire, and without interference or hindrance. In the event that Lessor makes improvements which benefit Concessionaire, Concessionaire agrees to negotiate with Lessor fair and reasonable modifications to the *Fees and Rentals* as specified in Article 4, or the establishment of new fees as the case may be.

8.2 Aerial Approaches - The Lessor has the right to take any action it considers necessary to protect the aerial approaches and transition surfaces of the Airport against obstruction, together with the right to prevent the Concessionaire or sub-Concessionaires from erecting or permitting to be erected any building or other structure on the Airport, which, in the opinion of the Airport Board of Trustees would limit the usefulness of the Airport or constitute a hazard to aircraft.

8.3 War, National Emergency, Riot, or Natural Disaster - During time of war, national emergency, riot or natural disaster, the Lessor shall have the right to lease the entire Airport or any part thereof to the United States or State of Wyoming for military or National Guard use and, in such event, the provisions of this Agreement, insofar as they are inconsistent with the provisions of any lease to any such unit of government, shall be suspended for the term of such government lease.

8.4 Access to Leased Premises - To the extent necessary to protect the rights and interests of the Lessor, to inspect the equipment and fixtures owned by Lessor, or to investigate compliance with the terms of this Agreement, the Airport Manager or his designee shall at any and all times have the right to inspect the Leased Premises, including all buildings, structures, and improvements erected thereon.

8.5 Unrestricted Right of Flight - The Lessor, for the use and benefit of the public, has a free and unrestricted

right of flight for the passage of aircraft in the airspace above the surface of the Leased Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from, or operating on or about the Airport.

- 8.6 Government Use of Airport - This Agreement shall be subordinate to the provisions of any existing or future agreement between the Lessor and the United States Government, relative to the operation or maintenance of the Airport, the execution of which has been, or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

## **Article 9 Obligations of Concessionaire**

Except as otherwise specifically provided herein, the Concessionaire shall have the following obligations.

- 9.1 Condition of Leased Premises - The Concessionaire shall use the Leased Premises in its present condition and, without expense to the Lessor, will maintain any installations thereon.

- 9.2 Hours and Days of Operation - Concessionaire shall actively operate the airport food and beverage concession with attendants on duty 365 days per year as follows:

Monday through Friday - 11:00 a.m. to 2:00 p.m.

Saturday - 11:00 a.m. to 2:00 p.m.

Sunday - 11:00 am to 2:00 p.m.

The above hours of operation are mutually agreed upon by Lessor and Concessionaire to best serve the flying public. From the date of Agreement execution, Lessor and Concessionaire will review the hours of operation, as applicable, on a quarterly basis, or sooner should the airline(s) schedule change, and adjust the hours of operation as necessary to best serve the Airport and its flying public.

- 9.3 Service - Concessionaire shall furnish airport food and beverage concession service in a prompt, courteous, and efficient manner and shall be adequate to meet the demands of said service at the Airport. Concessionaire shall provide, at a minimum, two employees trained and on premises to work during lunch hours daily (11 am to 2:00 pm daily).

- 9.4 Management - Concessionaire shall at all times retain an active, qualified, competent, and experienced manager to supervise Concessionaire's operations.

- 9.5 Dress - Concessionaire will uniform or dress its attendants and employees properly, with said attendants and employees clean, courteous, efficient, and neat in appearance at all times.

- 9.6 Employee Conduct - Concessionaire shall not employ any person or persons in or about the Leased Premises who uses offensive language or acts in a loud, boisterous, unprofessional, or otherwise improper manner. Concessionaire shall maintain a close check over attendants and employees to insure a high standard of service to the public.

- 9.7 Cleaning and Maintenance of Leased Premises - Concessionaire will clean and maintain the interior of the Leased Premises during the term of this Agreement, reasonable wear and tear excepted. Concessionaire will not permit or allow the Leased Premises to be damaged or depreciated in value by any act or

negligence of the Concessionaire, its agents or employees. Concessionaire shall remove from the Lease Premises trash and garbage. All waste matter shall be placed in sealed bags and disposed of daily.

Lessor shall be the sole judge of the quality of cleaning and maintenance, and upon written notice by the Lessor to Concessionaire, Concessionaire shall be required to accomplish whatever cleaning or maintenance Lessor deems reasonably necessary. If said maintenance is not undertaken by Concessionaire within fifteen (15) days or cleaning is not undertaken by Concessionaire within five (5) days after receipt of written notice, Lessor shall have the right to enter on the Leased Premises and perform, or have performed by an outside contractor the necessary work without liability, and Concessionaire agrees to pay one hundred twenty five percent (125%) of such expenses within fifteen (15) days upon invoice receipt. Requests for maintenance or repair for which Lessor is responsible must be submitted in writing by the Concessionaire and delivered to the Lessor. The Lessor reserves the right to determine at its sole discretion liability for the cost of the maintenance and will bill the appropriate Concessionaire and the Concessionaire shall remit payment thereof.

- 9.8 Signage and Illumination – Concessionaire shall not paint upon, attach, exhibit or display in or about said Leased Premises any sign without the written consent of the Airport Manager first obtained regarding the nature and construction of said sign, provided always that the Concessionaire may erect an appropriate sign containing the name of the Concessionaire with Airport Manager approval, said approval not to be unreasonably withheld.
- 9.9 Utilities – The Concessionaire shall pay Two Hundred Fifty (\$250.00) dollars per month to cover all utility service(s) supplied to the Leased Premises (heat, electricity, air conditioning, water, sanitary, garbage removal, and pest control). In the event it shall become necessary to make utility service or facility changes, the Concessionaire will either make such changes and installations, at its expense, as directed and required by the utility organizations, or pay the utility organization for such changes made. The Lessor shall have the right, without cost to Concessionaire, to install and maintain in, on or across the Leased Premises, sewer, water, gas, electric, and telephone lines, electric substations, or other installations necessary to the operation of the Airport, or to service other tenants of the Lessor; provided, however, that the Lessor shall carry out such work and locate any above-ground structures in a manner so as not to unreasonably interfere with Concessionaire's use of the Leased Premises.
- 9.10 Discrimination – The Concessionaire, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration thereof, does hereby covenant and agree that a) no person on the grounds of race, sex, color, physical handicap, or national origin shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of said facilities, b) that in the construction of any improvements on, over, or under such land and the furnishings of services, thereon, no person on the grounds of race, sex, color, physical handicap, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and c) that the Concessionaire shall use the Leased Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- 9.11 Costs of Enforcement – The Concessionaire covenants and agrees to pay and discharge all reasonable costs, attorneys' fees, and expenses that shall be made and incurred by the Lessor in enforcing the covenants and agreements of this Agreement.
- 9.12 Taxes, Licenses, and Permits – The Concessionaire shall obtain and keep current all municipal, Lessor, State and Federal licenses and permits that may be required in its operation. Also, Concessionaire will



bear, pay, and discharge all taxes, assessments and levies of every nature and kind which may be taxed, charged or assessed lawfully against the Leased Premises and improvements thereon, or which may be lawfully levied or imposed upon the leasehold by a governmental agency.

- 9.13 Parking – The Concessionaire agrees to prohibit vehicle parking on the Airport premises other than those vehicles specifically associated with the use of the Leased Premises, and no other. Concessionaire shall park in the designated Employee Parking Lot. The Concessionaire's invites shall park only in publicly designated parking areas. Concessionaire shall at all times comply with posted signs regulating the movement of vehicles.
- 9.14 Laws, Ordinances, Rules and Regulations – The Concessionaire agrees to observe and obey the rules and regulations governing the conduct and operation of the Airport facilities promulgated from time to time by the Airport Manager, the Airport Board of Trustees, and/or the Natrona County Commissioners. Concessionaire shall also comply with, at its own cost and expense, all applicable Federal, State, and local laws and ordinances.
- 9.15 Storage of Flammable Fluids – The Concessionaire agrees that the storage of gasoline or other flammable fluids in bulk quantities shall be limited to such areas as designated by the Airport Manager. Concessionaire agrees that the storage of all other gasoline or flammable fluids shall be in an approved steel locker labeled "FLAMMABLE". The Airport Manager may, at the Manager's discretion, prohibit or impose restrictions on the storage of said materials if, in the Manager's opinion, the storage is determined a safety hazard. The disposal of any hazardous chemicals or fluids on the Airport Leased Premises is prohibited.
- 9.16 Security Plan - The Airport has implemented an Airport Security Plan in a form acceptable to the Transportation Security Administration (TSA) pursuant to 49 Code of Federal Regulations Part 1520. The Lessor reserves the right to modify that plan from time to time, as it deems necessary, to accomplish compliance with FAA Regulations. The Concessionaire shall at all times comply with the Security Plan and indemnify and hold harmless the Lessor from any violations of said Security Plan committed by any agent or member of the Concessionaire. Lessor shall have the right to termination this Agreement in the vent that Concessionaire fails to comply, or remain in compliance, upon written notice by Lessor that compliance is required.
- 9.17 Recycling - The Lessor has implemented a material recycling program which reduces the quantity of waste disposed of in landfills and conserves valuable natural resources. Lessor reserves the right to modify said plan from time to time, as it deems necessary, to accomplish its purposes. The Concessionaire shall at all times comply with the recycling program.
- 9.18 Affirmative Action - Concessionaire, for itself, its personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land, that: (1) no person on the grounds of race, color, or national origin shall be excluded from participating in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color or national origin shall be excluded from participating in, denied the benefits of or otherwise be subjected to discrimination, (3) that the Concessionaire shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.
- 9.19 Liens - Concessionaire agrees to promptly pay all sums legally due and payable on account of any labor

performed on, or materials furnished for the Leased Premises. Concessionaire shall not permit any liens to be placed against the Leased Premises or Equipment on account of labor performed or material furnished, and in the event such a lien is placed against the Leased Premises, Concessionaire agrees to save the Lessor harmless from any and all such asserted claims and liens and to remove or cause to be removed any and all such asserted claims or liens as soon as reasonably possible.

Lessor shall have, in addition to the lien given by law, a security interest as provided by the Uniform Commercial Code of Wyoming, upon all personal property and all substitutions therefore, kept and used on said Leased Premises by Concessionaire. Lessor may proceed by law or in equity with any remedy provided by law or by this Agreement for the recovery of rent, or for termination of this Agreement because of Concessionaire's default in its performance.

9.20 Smoking - Concessionaire agrees that there will be no smoking in the Leased Premises.

## **Article 10 Insurance**

Concessionaire shall, at its expense, maintain insurance in full force and effect during the terms of this Agreement in such amounts and coverages as to meet the minimum limits of liability specified below, and insurance shall be placed with companies or underwriters authorized to do business in the State of Wyoming satisfactory to the Lessor. The Lessor, its boards, commissions, agencies, appointed and elected officials, employees, and representatives shall be named as additional insureds. Certificates of Insurance evidencing the required insurance shall be filed with the Airport Manager and upon request certified copies of the required insurance policies shall also be filed. The Certificates of Insurance and all such policies shall contain a provision that coverages will not be canceled or non-renewed during the term of this Agreement unless thirty (30) days advance notice in writing has been given to the Lessor in the manner specified in this Agreement.

### 10.1 Public Liability

Coverage must be adequate to protect liability for damage claims through public use of or arising out of accidents occurring in or around the Leased Premises.

Minimum Limits - Bodily Injury - \$500,000 each person injured; Property Damage - \$500,000

### 10.2 Automobile Liability Insurance

Coverage for all owned or leased automobiles.

Minimum Limits - Bodily Injury/Property Damage - \$500,000 combined single limit.

It is expressly understood that the Lessor has no responsibility for Concessionaire's owned or leased property except for any loss or damage arising out of any negligent act or omission of Lessor or its employees. Lessor and Concessionaire will each keep its property interest, both real and personal, in the Leased Premises and its liability in regard thereto reasonably insured against hazards and casualties; that is, fire and those items usually covered by extended coverage.

The Lessor may elect, at its option, to terminate this Agreement upon the cancellation or other termination of any insurance policy issued in compliance with this Article, unless another policy has been filed and approved pursuant to this Article, and shall have been in effect at the time of such cancellation or termination.

## **Article 11**

## **Indemnification and Hold Harmless**

The Concessionaire agrees to fully indemnify, save and hold harmless the Lessor, the Natrona County Commissioners, the Casper/Natrona County Airport Board or its successor, and the officers, agents, and employees of Natrona County from and against all claims, liabilities, judgments, damages, costs, and all expenses incidental to the investigation and defense thereof which may accrue against, be charged to, or recovered from Lessor, directly or indirectly, by reason of or account of or arising out of death, damages, or injuries to third persons or their property or damage to the property of the Lessor caused by the fault, action, non-action, omission, or negligence of Concessionaire, its agents, or employees and arising out of the use and occupancy of the operations at the Airport, including acts of joint negligence of the Concessionaire or its agents, but the Concessionaire shall not be liable for any injury or damage or loss occasioned by the negligence of the Lessor, its agents or employees. The parties shall give each other prompt and reasonable notice of any claim made or actions instituted which in any way directly or indirectly affects or may affect each other or Concessionaire's insured, and each party shall have the right to investigate, compromise, and defend the same to the extent of its own interests. Lessor shall have the right, but not the duty to participate in the defense of any claim or litigation with attorneys of the Lessor's selection without relieving Concessionaire of any obligations hereunder. Any final judgment rendered against Lessor for any cause for which Concessionaire is liable hereunder shall be conclusive against Concessionaire as to liability and amount. Concessionaire agrees to furnish proper and adequate insurance protection to Lessor, its agents, officers, and employees against any and all claims against them, which may arise from Concessionaire's use and occupancy of and operations at the Airport, to the extent of Concessionaire's indemnity obligations and herein before set forth. Concessionaire's obligations herein shall survive any termination of this Agreement or Concessionaire's activities on the Airport.

### **Article 12**

#### **Subleases; Responsibility for Sublessees**

Concessionaire shall not assign this Agreement, or any of its rights hereunder, nor sublet the Leased Premises or any part thereof without the prior written consent of the Airport Manager, such consent not to be unreasonably withheld, and in requesting such consent, Concessionaire agrees to provide the Airport Manager a full copy of the sublease agreement, including all fees, terms, and conditions prior to committing to a sublease agreement, provided that the foregoing shall not prevent the assignment of this Agreement to any corporation with which the Concessionaire may merge or consolidate, or which may succeed to the business of the Concessionaire, or to which the business and properties of Concessionaire, or substantially all of the same, may be sold or transferred by the Concessionaire. Concessionaire shall accept full responsibility and liability for the acts and omissions of its sublessees.

### **Article 13**

#### **Defaults and Remedies**

The occurrence of any one or more of the following events shall constitute a material default and breach of this Agreement by the Concessionaire.

- 13.1 The filing by Concessionaire of a voluntary petition in bankruptcy.
- 13.2 The institution of proceedings in bankruptcy against Concessionaire and the adjudication of Concessionaire as a bankrupt pursuant to such proceedings.
- 13.3 The taking by a court of Concessionaire and its assets pursuant to proceedings brought under the provisions of any Federal Reorganization Act.
- 13.4 The filing of any lien against the Airport or any of its property as the result of any act or omission of Concessionaire, if the lien is not discharged or contested in good faith by Concessionaire (as determined by the Lessor) within fifteen (15) days of Concessionaire's receipt of notice of the lien, unless

- Concessionaire posts a bond within this time period equal to the amount of the lien.
- 13.5 The voluntary abandonment by Concessionaire of its operations at the Airport.
  - 13.6 The appointment of a receiver of Concessionaire's assets, or any general assignment for the benefit of Concessionaire's creditors.
  - 13.7 The transfer of Concessionaire's interest herein by other operation of law.
  - 13.8 The failure by Concessionaire to make any payment required by this Agreement for a period of fifteen (15) days after the time such payment becomes due, where such failure continues for a period of fifteen (15) days after written notice from the Lessor.
  - 13.9 The falsification by the Concessionaire of any of its records or figures so as to deprive the Lessor of any of its rights under this Agreement.
  - 13.10 The failure by Concessionaire to perform any of the covenants, conditions, or obligations imposed on it by this Agreement where the failure continues for a period of fifteen (15) days after written notice from the Lessor, unless a shorter time is specified in this Agreement.
  - 13.11 A sale or other transfer of stock in Concessionaire's corporation which divests the present stockholders of controlling interest without the written approval of the Lessor, such approval not to be unreasonably withheld.
  - 13.12 The transfer or assignment, or attempted transfer or assignment of this Agreement by Concessionaire, without securing prior written approval of the Lessor, such approval not to be unreasonably withheld. It shall be understood for the purpose of this part that negotiations by Concessionaire for the assignment or transfer of this Agreement shall not be construed as "attempted transfer".
  - 13.13 Determination by the Airport Board of Trustees that the Leased Premises are not available based upon and considering public demand for said facilities and services.

In the event of any default by the Concessionaire, the Lessor shall have the right to declare this Agreement terminated. In addition to the termination right described in the preceding paragraph, the Lessor shall have the following rights and remedies upon default by Concessionaire:

- 13.14 The recovery of any unpaid rent, fees and other payments due and owing at the time of termination, plus any unpaid rent and fees that would have been earned and other payments what would have been made if the Agreement had not been breached by Concessionaire.
- 13.15 The recovery of any damages, costs, fees and expenses incurred by the Lessor as a result of the breach of the Agreement by Concessionaire.
- 13.16 The removal of all persons from the Airport, and the removal and storage at Concessionaire's expense of all of its property on the Airport.
- 13.17 Any other right or remedy, legal or equitable, that the Lessor is entitled to under applicable law.

In the event of any such termination as described above, the Lessor shall have the right at once and without further notice to the Concessionaire to enter and take full possession of all property and space occupied by the Concessionaire under this Agreement. Upon the termination of this Agreement for any reason, Concessionaire shall yield up all property, space, equipment and facilities to the Lessor in the same condition as when received, reasonable and ordinary wear and tear and damage by the elements excepted. In the event of the failure on the part of the Concessionaire upon the termination of this Agreement to immediately remove from the Airport all property owned by it, the Lessor might effect such removal and store such property at Concessionaire's expense. Concessionaire shall pay and discharge all reasonable costs, attorney's fees, and expenses that are incurred by the Lessor in enforcing the terms of this Agreement.

The failure of the Lessor to declare this Agreement terminated for any of the reasons set out above shall not bar the right of the Lessor to subsequently terminate this Agreement for any of the reasons set out above. Further, the acceptance of rental or fees by the Lessor for any period after a default by Concessionaire shall not be deemed a waiver of any right on the part of the Lessor to terminate this Agreement.

**Article 14**  
**Additional Termination Rights**

In addition to the termination rights set forth in the preceding Article, the Lessor may also terminate this Agreement if any of the following events occur:

- 14.1 A determination by the Casper/Natrona County Airport Board of Trustees, by resolution or ordinance, that termination is necessary to secure federal funding for Airport development.
- 14.2 The lawful assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of the Airport and facilities, or any substantial part of parts thereof, in such manner as to substantially restrict Concessionaire, for a period of at least sixty (60) days, from its operations.
- 14.3 A determination by the Casper/Natrona County Airport Board of Trustees that the Leased Premises is required for an aeronautical service provider, or businesses that supply products or services that support aeronautical service providers. In this event, Lessor shall either provide similar space on the Airport for lease to Concessionaire or provide Concessionaire ninety (90) days written notice prior to the time this Agreement is considered terminated.

**Article 15**  
**Cancellation by Concessionaire**

The Concessionaire may cancel this Agreement at any time that it is not in default in its obligations by giving the Airport Manager thirty (30) days written notice to be served as hereinafter provided after the happening of any of the following events, if such event materially impairs the conduct of Concessionaire's normal business on the Airport:

- 15.1 The issuance by a court of competent jurisdiction of any injunction in any way preventing or restraining normal use of the Airport or any substantial part of it, and the remaining in force of such injunction for a period of sixty (60) consecutive days, such injunction not being the result of any fault of Concessionaire;
- 15.2 The inability of Concessionaire to use, for a period of six (6) consecutive months, the Airport or any substantial part of it due to enactment or enforcement of any law or regulation, or because of fire, earthquake or similar casualty or Acts of God or the public enemy; or
- 15.3 The lawful assumption by the United States Government of the operation, control or use of the Airport or any substantial part of it for military purposes in time of war or national emergency for a period of at least ninety (90) days.

Failure of Concessionaire to declare this Agreement canceled for any of the reasons set out above shall not operate to bar or destroy the right of Concessionaire to cancel this Agreement by reason of any subsequent occurrence of the described events.

**Article 16**  
**Waiver of Subrogation**

Subject to approval by their respective insurance companies, the Lessor and the Concessionaire hereby release each other from any and all responsibility to the other for any loss of damage to property caused by fire or other peril if the property is insured for such loss or damage in any policy of insurance, even if such loss or damage is caused by the fault or negligence of the other party or anyone for whom such party is responsible. To the greatest extent possible, the Lessor and the Concessionaire will make every effort to obtain from its insurance carrier a waiver of subrogation for the matters here described in any such policy of insurance.

**Article 17**  
**Remedies Cumulative; No Waiver**

All of the rights and remedies given to the Lessor in this Agreement are cumulative and no one is exclusive of any other. The Lessor shall have the right to pursue any one or all of such remedies or any other remedy or relief that may be provided by law, whether stated in this Agreement or not.

The failure of the Lessor to take action with respect to any breach by Concessionaire of any covenant, condition or obligation in this Agreement shall not be a waiver of such covenant, condition or obligation or a subsequent breach of the same or any other covenant, condition or obligation. The acceptance by the Lessor of any rent or other payment shall not be a waiver by it of any breach by Concessionaire of any covenant, condition or obligation.

**Article 18**  
**Damage to Property of Concessionaire and Others**

The Lessor shall have no liability to the Concessionaire or its sublessees, contractors, guests or invitees for any damage to their property caused by fire, tornado, earthquake, windstorm or other casualty, not for any damage caused by the act or omission of a third party.

**Article 19**  
**Damage to Leased Premises and Property**  
**By Concessionaire and Others**

If any part of any Airport property is damaged by the act or omission of the Concessionaire, its agents, officers, employees, contractors, sublessees and subcontractors, the Concessionaire shall pay to the Lessor, upon demand, any amount that the Lessor reasonably determines is necessary to repair or replace the property.

**Article 20**  
**Lessor Representative**

The Airport Manager is the official representative of the Lessor for the administration and enforcement of this Agreement.

**Article 21**  
**Subordination**

This Agreement is and shall be subordinate to any existing or future Agreement between the Lessor and the United States regarding the operation or maintenance of the Airport.

**Article 22**  
**Governing Law;**

### **Venue for Disputes**

This Agreement shall be deemed to have been made in, and shall be construed in accordance with the laws of the State of Wyoming. Any lawsuit related to or arising out of disputes under this Agreement shall be commenced and tried in the circuit court of Natrona County, Wyoming, and the Lessor and the Concessionaire submits to the exclusive jurisdiction of the circuit court for such lawsuits.

### **Article 23 Counterparts**

This Agreement has been executed in several counterparts, each of which shall be taken to be an original, and all collectively but one instrument.

### **Article 24 Severability**

In the event that any provision in this Agreement is held to be invalid by any court of competent jurisdiction, the invalidity of any such provision shall in no way affect any other provision in this Agreement, provided that the invalidity of any such provision does not materially prejudice either the Lessor or Concessionaire in their respective rights and obligations contained in the valid provisions of this Agreement.

### **Article 25 Independence of Contract**

It is further mutually understood and agreed that nothing herein contained is intended or shall be construed as in any way creating or establishing the relationship of co-partners between the parties hereto, or as constituting the Concessionaire as the agent or representative or employee of the Lessor for any purpose or in any manner whatsoever.

### **Article 26 Survival of Obligations/ Successors and Assigns Bound**

The Concessionaire shall be responsible for the obligations in Article 11 in perpetuity. Additionally, any payment obligation and repair obligation that exists as of the termination or cancellation of this Agreement shall extend until the obligation is satisfied.

All of the provisions, covenants, and stipulations in this Agreement shall extend to and bind the legal representatives, successors and assigns of the respective parties.

### **Article 27 Entire Agreement**

This Agreement contains and embodies the entire Agreement between the Lessor and the Concessionaire and supersedes and replaces any and all prior agreements, understandings and promises on the same subject, whether they are written or oral.

### **Article 28 No Assignment**

This Agreement may not be assigned, nor may any part of it be assigned, without the express written consent of the Lessor.

**Article 29**  
**Holdover Possession of Leased Premises by Concessionaire**

In the event that Concessionaire should hold over and remain in possession of the Leased Premises after the expiration of this Agreement or termination for any cause, the holding over shall be deemed not to operate as a renewal or extension of this Agreement and shall create a tenancy from month to month which may be terminated at any time by the Airport Manager or Concessionaire, upon notice as required to end month to month tenancies.

**Article 30**  
**Paragraph Headings**

All paragraph and subparagraph headings contained in this Agreement are for convenience in reference only, and are not intended to define or limit the scope of any provision.

**Article 31**  
**Notices**



Notices to the Lessor or Concessionaire provided for in this Agreement shall be hand delivered or sent by certified mail, postage prepaid, addressed to:

Lessor

Airport Manager  
Casper / Natrona County Int'l Airport  
8500 Airport Parkway  
Casper, WY 82604-1697

Concessionaire

Charlie T's, LLC  
P.O. Box 343  
Hulett, WY 82720

or to such other addresses as the parties may designate to each other in writing from time to time, and such notices shall be deemed to have been given when so sent.

All payments shall be made payable to the Natrona County International Airport and sent to the attention of the Airport Manager at the Lessor's address stated above.

IN WITNESS WHEREOF, the parties have hereto have caused this Agreement to be executed by their proper officers, this 15<sup>th</sup> day of October, 2008.

Signed in the Presence of:

Casper / Natrona County International Airport (Lessor):

\_\_\_\_\_

By:

\_\_\_\_\_

Kermit Wille  
Airport Board President

Signed in the Presence of:

Charlie T's, LLC (Concessionaire):

\_\_\_\_\_

By:

\_\_\_\_\_

**Article 32**  
**Exhibits**

32.1 Leased Premises Diagram

Exhibit A  
Leased Premises Diagram

