

AIRPORT LAND USE AGREEMENT FOR
PORTABLE HANGARS

THIS LEASE, made and executed this 22nd day of March,
1988, by and between the COUNTY OF EL DORADO, hereinafter called
"County", and John D. Emigh 7050 Mt. Aukum Road #105
Somerset, Ca 95684, hereinafter called "Lessee",

W I T N E S S E T H:

County, pursuant to Government Code Sections 25350 - 25575
and 50470 - 50478 and El Dorado County Ordinance Sections
3.08.021, hereby leases to Lessee the real property at County's
Placerville Airport, described in Exhibit "A" attached hereto and
made a part hereof, on the following terms and conditions:

1. The term of said lease shall be for a period of
five (5) years commencing January 1, 1987 and ending
December 31, 1991. Lessee shall have the option to
renew for up to two (2) additional successive terms of five (5)
years each. County shall give Lessee sixty (60) days' written
notice prior to the end of each term and Lessee shall give County
written notice of Lessee's intention to exercise said option no
later than thirty (30) days from the end of each term. Upon
expiration of the foregoing terms, Lessee shall have the right of
first refusal to an additional lease not to exceed ten (10) years
under such terms and conditions as may be agreed upon at such
time.

2. Lessee shall pay to County a rental of one hundred
percent (100%) of the annual tiedown fee for the appropriate
aircraft and/or site category as established and may be changed
from time to time by resolution of the El Dorado County Board of

1 Supervisors and which is in effect at each rental payment date.

2 Said rental is payable as follows:

3 a. Upon the commencement date, Lessee shall pay the
4 prorata portion of the annual rent for the time period from the
5 commencement date to July 1 next succeeding.

6 b. On each July 1, Lessee shall pay the annual rental
7 for the next succeeding fiscal year.

8 c. On July 1, at the commencement date of the fiscal
9 year during which this lease terminates, Lessee shall pay the
10 prorata portion of the annual rent for the time period from July
11 1 to the termination date of said lease.

12 The annual rental at the commencement of this lease is
13 Four Hundred Twenty and no/100 Dollars (\$ 420.00).

14 3. Lessee shall maintain a hangar upon the leased premises
15 in the manner described in paragraph 6 hereinbelow throughout the
16 term of this agreement.

17 If not already constructed at the effective date of
18 this agreement, within six (6) months of the commencement of this
19 lease, Lessee shall erect and maintain during the balance of the
20 lease term herein a hangar upon the property, approximately
21 37'2" x 42'2" Twin TP13 in size. Lessee shall be
22 responsible for all surface preparation incident to placing a
23 hangar thereon. The site preparation must be approved by the
24 Airports Department prior to hangar erection.

25 Failure of Lessee to erect said hangar within the prescribed
26 time period or to maintain said hangar as required herein shall
27 constitute a material breach of this agreement and, in such
28 event, County may terminate this agreement without liability to

1 Lessee hereunder.

2 4. Upon termination or expiration of this lease, improve-
3 ments of a permanent nature placed upon the leased premises, such
4 as concrete pads, gravel or other site preparation, shall become
5 the property of County without charge to the County and Lessee
6 shall remove the hangar at Lessee's sole obligation and expense.
7 If Lessee fails to remove said hangar within thirty (30) days
8 after termination or expiration of this agreement, County may, in
9 its discretion, after notice to Lessee of its intent to do so,
10 cause said hangar to be removed and the costs for storage,
11 removal and additional rental thereof shall be paid by Lessee.
12 For purposes of calculating additional rent in the event Lessee
13 holds over beyond the expiration or termination of this agree-
14 ment, Lessee shall be charged one-twelfth (1/12) of the current
15 annual tie-down rate for each thirty (30) calendar day period or
16 portion thereof after the expiration or termination date of this
17 agreement.

18 5. It is further agreed by and between the parties hereto
19 that County has informed Lessee that such property interest,
20 together with any improvements as may be made by Lessee, as may
21 be created or allowed by this agreement may be subject to
22 property taxation and that Lessee may be subject to the payment
23 of property taxes levied on such interest(s).

24 Lessee agrees to pay all taxes levied upon the leased
25 property and improvements on the property, including trade
26 fixtures and inventory not owned by Lessor and kept on the
27 premises leased herein.

28 6. At all times during the term of this lease, Lessee

1 shall, at its own cost and expense, keep and maintain said land
2 and all improvements thereon and all facilities appurtenant
3 thereto in good order and repair and safe condition and in com-
4 pliance with all requirements of law. Lessee shall make any and
5 all additions to, or alterations or repairs in and about the land
6 and/or improvements which may be required and, in doing so,
7 Lessee shall observe and comply with all existing or future
8 public laws, ordinances and regulations applicable to the land or
9 public airport lands upon which the leased premises are located.
10 Lessee shall maintain an area of ten (10) feet from the exterior
11 walls of said hangar or of the median point between hangars if
12 there is less than twenty (20) feet between hangars, free from
13 brush and weeds. Lessee shall indemnify and agrees to defend and
14 hold County harmless against all actions, claims and damages by
15 reason of Lessee's failure to comply with and perform the provi-
16 sions of this section. If Lessee fails to keep and maintain the
17 leased premises and improvements as required herein, County may
18 in its discretion following written notice undertake to do or
19 have done such and any expenses incurred by County shall be
20 payable by Lessee.

21 7. Lessee shall indemnify, defend and hold County harmless
22 from and against any and all claims arising from Lessee's use or
23 use by Lessee's agents, contractors or employees of the premises,
24 or from the conduct of Lessee's business or any activity, work or
25 things done, permitted or suffered by Lessee in or about the
26 premises or elsewhere, and shall further indemnify, defend and
27 hold County harmless from and against any and all claims arising
28 from any breach or default in the performance of any obligation

1 on Lessee's part to be performed under the terms of this agree-
2 ment and from all costs, attorney's fees, expenses and
3 liabilities incurred in the defense of any such claim, or any
4 action or proceeding brought thereon. Lessee, as a material part
5 of the consideration to Lessor, hereby assumes all risk of damage
6 to property or injury to persons in or upon the premises arising
7 from any cause except that caused solely by County or its
8 employees, agents, and Lessee hereby waives all claim in respect
9 thereof against County.

10 8. Lessee shall procure and maintain during the term of
11 this lease, in full force and effect, an insurance policy or
12 policies, in a form and with a company acceptable to the County,
13 for comprehensive general liability insurance (public liability
14 and property damage, with coverage not less than \$100,000.00 per
15 person, \$300,000.00 per occurrence, and \$25,000.00 property
16 damage covering liability arising out of Lessee's use of,
17 occupancy or operations on or about the airport. Such policy or
18 policies shall name the County of El Dorado, its officers, agents
19 and employees as additional insured, and provide that such
20 insurance will not be terminated, cancelled or materially changed
21 without at least thirty (30) days' prior notice in writing to
22 County and shall be subject to approval as to coverage by Lessor.
23 Lessee shall be responsible for all deductibles in said coverage
24 and Lessee's indemnity and other obligations shall not be limited
25 by the foregoing insurance requirements.

26 The parties hereto agree that County may, through resolution
27 by its Board of Supervisors, after public hearing of which Lessee
28 shall have been given written notice at least thirty (30) days in

1 advance thereof increase or otherwise amend or change the
2 insurance coverage requirement as set forth hereinabove. The
3 parties also agree that failure or refusal by Lessee to obtain or
4 maintain such coverage as required herein or by subsequent
5 resolution shall constitute a material breach of this agreement
6 and, in such event, County, in its sole discretion, may
7 terminate this agreement without liability to Lessee hereunder or
8 elect to obtain like coverage and the cost for such coverage
9 shall be paid by Lessee.

10 9. No structure or other improvements for which the plans,
11 specifications and proposed location have not first received the
12 written approval of County shall be constructed or maintained on
13 the leased premises. No material addition to or alteration of
14 any building or structure erected on the leased land shall be
15 commenced unless and until said plans and specifications covering
16 the exterior of the proposed addition or alterations shall have
17 been first submitted to and approved by County. For the purposes
18 of this section, the County Airports Operations Supervisor or
19 successor authority shall be the approval authority for such
20 plans.

21 10. The leased premises are leased herein for the sole
22 purpose of storage, care and maintenance of aircraft, and for
23 uses normally incident thereto. Unless expressly provided for
24 herein or by other written agreement with County, nothing in this
25 lease shall be construed to grant Lessee the right to conduct
26 business or any commercial activity upon the leased premises
27 herein, including but not limited to any commercial activities,
28 e.g., for hire or profit, or those normally or actually conducted

1 by fixed base operators upon airport premises. The storage of an
2 aircraft used in Lessee's trade or business shall not be deemed a
3 "commercial activity" and such aircraft shall be deemed to be
4 "Lessee's aircraft" for purposes of this paragraph. The
5 obtaining or holding of leases, subleases or interests in more
6 than two (2) portable hangar leases upon County property by
7 Lessee herein wherein the consideration paid is greater than the
8 rental paid to the County of El Dorado for the same property
9 shall be deemed a "commercial activity" for the purposes of this
10 agreement and violative of the intent of the foregoing provision.

11 Lessee shall submit within thirty (30) days a sale, sublease
12 assignment or rental of any aircraft stored on the leased
13 property, the Aircraft Registration Number ("N-number"), and the
14 name of the registered owner.

15 11. In the event the airport or other premises herein
16 leased are rendered totally or partially inaccessible, untenable
17 or unusable because of the condition thereof, which condition was
18 not caused by County or its agents, and County, in its sole
19 discretion, determines that restoration, repair or further use is
20 not desirable, this agreement shall be automatically terminated
21 upon thirty (30) days' notice to Lessee. In such event, County
22 shall owe nothing as a result thereof and all and any costs or
23 expenses of removal of structures as provided for herein are to
24 be borne by Lessee.

25 12. In case of any default hereunder or in the event suit
26 is brought to enforce any of the terms or conditions of this
27 liability agreement, in addition to other charges, expenses,
28 costs or damages for which liability may otherwise be incurred,

1 the losing party shall be liable for reasonable attorney fees
2 incurred by the opposing side.

3 13. Lessee shall not transfer, assign or sublet to any
4 other person this lease, the lease premises or any portion there-
5 of except as provided for herein. It is the understanding and
6 intent of the parties that in the event of sale of the portable
7 hangar or sublease, assignment, or other transfer of the inter-
8 ests hereunder, only the balance of the term of this agreement
9 may be transferred or assigned to a successor in interest and
10 that such transfer or assignment requires the permission of
11 County to be first obtained. Such consent may be withheld by
12 County for any commercially reasonable objection, including where
13 such transfer, assignment or sublease would result in a "commer-
14 cial activity" as described in paragraph 10 above. Lessee herein
15 shall at all times remain obligated for performance of the terms
16 hereof.

17 14. County reserves to itself and to its successors or
18 assigns hereunder the following rights:

19 a. The right after reasonable notice to Lessee to
20 enter onto the premises at reasonable times to determine if the
21 installation and maintenance of the aforementioned structures is
22 in good condition and Lessee is complying with all federal, state
23 and local laws and regulations.

24 b. The right to enter onto the premises to serve, post
25 any required notices, or to carry out and enforce all laws;

26 c. The right for the use and benefit of the public of
27 flight for the passage of aircraft in the airspace above the
28 surface of the premises herein leased, to include but not limited

1 to the right to cause in said airspace any noise inherent in the
2 operation of any aircraft through said airspace or from the
3 taking off from or landing of said aircraft at said airport;

4 d. The right to further develop or improve the airport
5 as it sees fit without interference or hinderance by Lessee; and

6 e. County has the right, but shall not be obligated to
7 lessee, to maintain and keep in repair the landing area of the
8 airport and all publically owned facilities at said airport,
9 together with the right to direct and control all activities of
10 lessee in this regard.

11 15. This lease shall be subordinate to the provisions and
12 requirements of any existing or future agreement between County
13 and the United States, relative to the development, operation, or
14 maintenance of the airport, including such required covenants
15 promulgated by the Federal Aviation Administration attached
16 hereto as Exhibit "B". For the purposes of the FAA required
17 covenants, County shall be the "sponsor" and the lessee or its
18 successor in interest shall be the "lessee, licensee, permittee
19 or other similar party.

20 16. Lessee shall confine his activities to the leased
21 premises only excepting reasonable ingress and egress and the
22 normal and intended use of the airport runways and taxi-ways and
23 other airport public facilities.

24 17. During the term of this lease County shall have the
25 right, at County's obligation and expense, to relocate the leased
26 tract herein to a different location at the Placerville Airport
27 and to move and install Lessee's hangar to such relocated tract,
28 provided that:

1 a. Lessee is given thirty (30) days' notice of such
2 relocation; and

3 b. County provides surfacing and improvements at the
4 relocated tract at least equal to the surfacing and improvements
5 at Lessee's prior location.

6 18. The lease contains the entire agreement of the parties
7 with respect to the matters covered by this lease and no other
8 agreement, statement or promise made by any party or to any
9 employee, officer or agent of any party which is not contained in
10 this lease shall be binding or valid.

11 19. Lessee shall not commence any use under this agreement
12 until proof of the insurance required by this agreement has been
13 filed with the County of El Dorado and is satisfactory to the
14 County.

15 20. Time is of the essence of each provision of this
16 agreement.

17 21. The unenforceability, invalidity, or illegality of any
18 provision shall not render the other provisions unenforceable,
19 invalid, or illegal.

20 This lease has been executed by the parties on the day,
21 month and year first hereinabove written.

22 COUNTY OF EL DORADO

23 By *Robert A. Row*
Chairman, Board of Supervisors

24 ATTEST:
25 BILLIE MITCHELL, County Clerk
and ex-officio Clerk of the
Board of Supervisors

"COUNTY" 3-22-88

26 By *Margaret E. Meedy*
27 Deputy 3-22-88

28 *[Signature]*
"LESSEE"

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EXHIBIT "A" to LAND/USE LEASE

DESCRIPTION

TP13

Mr. John D. Emigh

A tract of land in the shape of a T Hangar, 43'2" by 38'2", fronting on the Southerly side of the abandoned Airport Runway located in the area approximately 1700 feet in length bounded on the West by the paved taxiway at the Westerly end of the abandoned runway and bounded on the North by the edge of the abandoned runway, now the existing taxiway.

Due to the dimensions of each hangar, 100% of a twin engine tiedown will be required for each. This rate is subject to change by a Resolution of the Board of Supervisors.

FEDERAL AVIATION ADMINISTRATION
AGREEMENT COVENANTS

1. The (Sponsor) reserves the right to further develop or improve the landing area of the airport as it sees fit, regardless of the desires or view of the (lessee, licensee, permittee) and without interference or hindrance.
2. The (Sponsor) reserves the right, but shall not be obligated to the (lessee, licensee, permittee) to maintain and keep in repair the landing area of the airport and all publicly-owned facilities of the airport, together with the right to direct and control all activities of the (lessee, licensee, permittee, etc.) in this regard.
3. This (lease, license, etc.) shall be subordinate to the provisions and requirements of any existing or future agreement between the (Sponsor) and the United States, relative to the development, operation or maintenance of the airport.
4. There is hereby reserved to the (Sponsor), its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises herein (leased, licensed, permitted). This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation on the (official name) airport.
5. (Lessee, licensee, permittee, etc.) agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the (leased, licensed, permitted) premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the (leased, licensed, permitted) premises.
6. The (lessee, licensee, permittee) by accepting this expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the land leased hereunder above the mean sea level elevation 2603* (or 20) feet. In the event the aforesaid covenants are breached, the owner reserves the right to enter upon the land (leased, etc.) hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of the (lessee, licensee, permittee).
7. The (lessee, licensee, permittee, etc.) by accepting this (lease, license, etc.) agrees for itself, its successors and assigns that it will not make use of the (leased, etc.) premises in any manner which might interfere with the landing and taking off of aircraft from Placerville Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the owner reserves the right to enter upon the premises hereby (leased, etc.) and cause the abatement of such interference at the expense of the lessee, licensee, permittee).
8. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).

9. **This (lease, license, permit) and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of said airport or the exclusive or non-exclusive use of the airport by the United States during the time of war or national emergency.