

LEASE AGREEMENT

Date: May 1, 2011

Landlord: TOM GREEN COUNTY, a legal and political
subdivision of the State of Texas
112 West Beauregard
San Angelo, Tom Green County, Texas 76903

Tenant: Marshall W. Munce, d/b/a Southwest
Motorcycle Training
18531 S. McConnell Road
Atascosa, Bexar County, Texas 78002-5507

Premises:

The utilization of a portion of the parking lot located at 3020 North Bryant, San Angelo, Tom Green County, Texas consisting of approximately 110,000 sq. ft. (highlighted in yellow) as set forth and identified within Exhibit A attached hereto and incorporated herein by reference

Term: 36 months

Commencement Date: May 1, 2011

Termination Date: April 30, 2014

The Lease Agreement may be terminated by either party upon one hundred twenty (120) days prior written notice of either party.

Base Rent (monthly): \$400.00

Permitted Use:

To conduct a State of Texas sanctioned motorcycle safety and training course in accordance with the Motorcycle Safety Foundation and/or the Texas Department of Public Safety with said use to be confined to weekends beginning Saturday at 6:00 a.m. ending Sunday at 7:00 p.m. No admittance or use shall be allowed on weekdays.

Definitions

"Injury" means (a) harm to or impairment or loss of property or its use, (b) harm to or death of a person, or (c) "personal and advertising injury" as defined in the form of liability insurance Tenant is required to maintain.

"Landlord" means Tom Green County and its elected officials, officers, employees or agents.

"Rent" means Base Rent payable by Tenant to Landlord.

"Tenant" means Marshall W. Munce d/b/a Southwest Motorcycle Training and his agents, contractors, subcontractors, employees, invitees or licensees.

Clauses and Covenants

A. Tenant agrees to -

1. Lease the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date, subject to earlier termination as set forth in Term.

2. Accept the Premises in its present condition "AS IS," the Premises being currently suitable for the Permitted Use.

3. Obey (a) all applicable laws relating to the use, condition, and occupancy of the Premises; (b) any requirements imposed by insurance companies covering the Premises; (c) compliance with all licensing requirements of the State of Texas; and (d) any rules and regulations for the use of Premises as may be adopted and required by Landlord.

4. Pay monthly, in advance, on the first day of the month, the Base Rent to Landlord at Landlord's Address.

5. Pay a late charge of 5 percent of any Rent not received by Landlord by the fifth day after it is due.

6. Obtain and pay for all utility services used by Tenant.

7. Allow Landlord to inspect the Premises.

8. Repair and maintain any part of the Premises that Landlord is not obligated to repair, replace, or maintain, reasonable wear excepted.

9. Keep the Premises clean and unobstructed of equipment, trash and debris.

10. Submit in writing to Landlord any request for repairs, replacement, and maintenance that are the obligations of Landlord.

11. Vacate the Premises and return the Premises on the last day of the Term.

12. Pay all costs and expenses caused by Tenant's introduction of materials and damages to Premises.

13. The following conditions shall apply to all insurance policies obtained by Tenant for the purpose of complying with this Agreement.

13.1 **Satisfactory Companies.** Coverage shall be maintained with insurers licensed to do business in Texas.

- 13.2 **Named Insureds.** All insurance policies required herein shall be drawn in the name of Tenant with Landlord, its elected officials, officers, employees, agents, invitees and licensees named as additional insureds.
- 13.3 **Waiver of Subrogation.** Tenant shall require its insurance carrier(s), with respect to all insurance policies, to waive all rights of subrogation against Landlord, its elected officials, officers, employees, agents, invitees and licensees
- 13.4 **Tenant's Liability.** The procuring of such policy of insurance shall not be construed to be a limitation upon Tenant's liability. Tenant's obligations are, notwithstanding any policy of insurance, for the full and total amount of any damage, injury or loss caused by or attributable to its activities conducted at or upon the Premises. Failure of Tenant to maintain adequate coverage shall not relieve Tenant of any contractual responsibility or obligation.
- 13.5 Tenant shall obtain, and continue to maintain in effect at all times under the terms hereof at Tenant's sole expense, insurance coverages as follows with limits not less than those as set forth below:

Commercial General Liability. This policy shall be an occurrence-type policy, written in comprehensive form and shall protect Tenant and additional insureds against all claims arising from bodily injury, sickness, disease or death of any person (other than Tenant's employees) and damage to property of the Landlord or others arising out of the act or omission of Tenant or its agents, contractors, subcontractors, employees, invitees and licenses. Coverage shall be as follows:

\$2,000,000.00	General Aggregate
\$2,000,000.00	Products - Completed Operations Aggregate
\$1,000,000.00	Personal & Advertising Injury
\$1,000,000.00	Each Occurrence
\$ 100,000.00	Damage to Rented Premises
\$ 10,000.00	Medical Expense (any one person)

14. INDEMNIFY, DEFEND, AND HOLD LANDLORD HARMLESS FROM ANY INJURY (AND ANY RESULTING OR RELATED CLAIM, ACTION, LOSS, LIABILITY, OR REASONABLE EXPENSE, INCLUDING ATTORNEY'S FEES AND OTHER FEES AND COURT AND OTHER COSTS) OCCURRING IN ANY PORTION OF THE PREMISES. **THE INDEMNITY CONTAINED IN THIS PARAGRAPH (a) IS INDEPENDENT OF TENANT'S INSURANCE, (b) WILL NOT BE LIMITED BY COMPARATIVE NEGLIGENCE STATUTES OR DAMAGES PAID UNDER THE WORKERS' COMPENSATION ACT OR SIMILAR EMPLOYEE BENEFIT ACTS, (c) WILL SURVIVE THE END OF THE TERM, AND (d) WILL APPLY EVEN IF AN INJURY IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF LANDLORD BUT WILL NOT APPLY TO THE EXTENT AN INJURY IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD.**

B. Tenant agrees not to -

- 1. Use the Premises for any purpose other than the Permitted Use.
- 2. Create a nuisance.

3. Interfere with Landlord's management and use of the Premises.
4. Permit any waste.
5. Use the Premises in any way that would increase insurance premiums or void insurance on the Premises.
6. Alter the Premises.
7. Allow a lien to be placed on the Premises.
8. Assign this lease or any portion of the Premises without the prior Landlord's written consent.
9. Place any signs or drawings on the Premises without Landlord's written consent, which consent shall not be unreasonable withheld.

C. Landlord agrees to -

Lease to Tenant the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date, subject to earlier termination as set forth in Term.

D. Landlord agrees not to -

Interfere with Tenant's possession of the Premises as long as Tenant is not in default.

E. Landlord and Tenant agree to the following:

1. **Alterations.** Any physical additions or improvements to the Premises made by Tenant will become the property of Landlord. Landlord may require that Tenant, at the end of the Term and at Tenant's sole expense, remove any physical additions and improvements, repair any alterations, and restore the Premises to the condition existing at the Commencement Date, normal wear excepted.

2. **Abatement.** Tenant's covenant to pay Rent and Landlord's covenants are independent. Except as otherwise provided, Tenant will not be entitled to abate Rent for any reason.

3. **Insurance.** Tenant will maintain the insurance coverages described in A.13.

4. **Casualty/Total or Partial Destruction**

a. If the Premises are damaged by casualty and can be restored within sixty days, Landlord will, at its expense, restore the Premises. If Landlord fails to complete the portion of the restoration for which Landlord is responsible within sixty days from the date of written notification by Tenant to Landlord of the casualty, Tenant may terminate this lease by written notice delivered to Landlord before Landlord completes Landlord's restoration obligations.

b. If Landlord cannot complete the portion of the restoration for which Landlord is responsible within sixty days, Landlord has an option to restore the Premises. If

Landlord chooses not to restore, this lease will terminate. If Landlord chooses to restore, Landlord will notify Tenant in writing of the estimated time to restore and give Tenant an option to terminate this lease by notifying Landlord in writing within ten days from receipt of Landlord's estimate. If Tenant does not notify Landlord timely of Tenant's election to terminate this lease, the lease will continue and Landlord will restore the Premises as provided in a. above.

c. To the extent the Premises are untenantable after the casualty, the Rent will be adjusted as may be fair and reasonable.

5. ***Condemnation/Substantial or Partial Taking***

a. If the Premises cannot be used for the purposes contemplated by this lease because of condemnation or purchase in lieu of condemnation, this lease will terminate.

b. If there is a condemnation or purchase in lieu of condemnation and this lease is not terminated, Landlord will, at Landlord's expense, restore the Premises, and the Rent payable during the unexpired portion of the Term will be adjusted as may be fair and reasonable.

c. Tenant will have no claim to the condemnation award or proceeds in lieu of condemnation.

6. ***Default by Landlord/Events.*** Defaults by Landlord are failing to comply with any provision of this lease within thirty days after written notice within ten days after written notice.

7. ***Default by Landlord/Tenant's Remedies.*** Tenant's remedies for Landlord's default are termination of the Lease Agreement.

8. ***Default by Tenant/Events.*** Defaults by Tenant are (a) failing to pay timely Rent, (b) abandoning or vacating a substantial portion of the Premises, (c) failing to maintain insurance, and (d) failing to comply within ten days after written notice with any provision of this lease other than the defaults set forth in (a), (b) and (c) above.

9. ***Default by Tenant/Landlord's Remedies.*** Landlord's remedies for Tenant's default are to (a) enter and take possession of the Premises, after which Landlord may relet the Premises on behalf of Tenant and receive the Rent directly by reason of the reletting, and Tenant agrees to reimburse Landlord for any expenditures made in order to relet; and (b) terminate this lease by written notice and sue for damages. Landlord may enter and take possession of the Premises by self-help, by locking out Tenant or any other person who may be occupying the Premises, until the default is cured, without being liable for damages.

10. ***Default/Waiver/Mitigation.*** It is not a waiver of default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this lease does not preclude pursuit of other remedies in this lease or provided by applicable law. Landlord and Tenant have a duty to mitigate damages.

11. ***Holdover.*** If Tenant does not vacate the Premises following termination of this lease, Tenant will become a tenant at will and must vacate the Premises on receipt of notice from Landlord. No holding over by Tenant, whether with or without the consent of Landlord, will extend the Term.

12. **Alternative Dispute Resolution.** Landlord and Tenant agree to mediate in good faith before filing a suit for damages.

13. **Attorney's Fees.** If either party retains an attorney to enforce this lease, the party prevailing in litigation is entitled to recover reasonable attorney's fees and other fees and court and other costs.

14. **Venue.** Exclusive venue is in the county in which the Premises are located.

15. **Entire Agreement.** This lease is the entire agreement of the parties, and there are no oral representations, warranties, agreements, or promises pertaining to this lease not incorporated in writing in this lease.

16. **Amendment of Lease.** This lease may be amended only by an instrument in writing signed by Landlord and Tenant.

17. **Limitation of Warranties.** THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE.

18. **Notices.** Any notice required or permitted under this lease must be in writing. Any notice required by this lease will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this lease. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

19. **Abandoned Property.** Landlord may retain, destroy, or dispose of any property left on the Premises at the end of the Term.

TOM GREEN COUNTY



By: Michael D. Brown, County Judge acting in his Official Capacity and not in his Individual Capacity

SOUTHWEST MOTORCYCLE TRAINING

By: _____
Marshall W. Munce, Owner

STATE OF TEXAS §

COUNTY OF TOM GREEN §

This instrument was acknowledged before me on this 3rd day of May, 2011, by Michael D. Brown, as County Judge of Tom Green County, on behalf of Tom Green County.



Elizabeth McGill
Elizabeth McGill, County Clerk, Tom Green County, Texas
Elizabeth McGill
County Clerk
Tom Green County, Texas

STATE OF TEXAS §

COUNTY OF BEXAR §

This instrument was acknowledged before me on this _____ day of May, 2011, by Marshall W. Munce, Owner of Southwest Motorcycle Training.

Notary Public, State of Texas

Exhibit A

