

# COMMERCIAL LEASE

THIS LEASE IS MADE AND ENTERED INTO BY SOUTHWIND PLAZA, INC. a Kansas corporation, ("Landlord") and Thomas County Board of Commissioners on behalf of Thomas County District Court, ("Tenant") on this 23<sup>rd</sup> day of November, 2020,, which is the Effective Date of this Agreement.

## WITNESSETH:

In consideration of the obligation of Tenant to pay rent and in consideration of the other terms, covenants and conditions hereof, Landlord hereby demises and leases to Tenant, the Premises to have and to hold for the least term specified herein, all upon the terms and conditions set forth in this Lease.

## BASIC PROVISIONS:

1: The following basic provisions shall be construed in conjunction with, and limited by, reference thereto in other provisions of this Lease:

- A Landlord: Southwind Plaza, Inc., 2280 Southwind Avenue, Colby, KS 67701  
785-460-3058 Office; 785-460-7580 Fax; 785-443-1673 Manager
- B Tenant: Thomas County Board of Commissioners on behalf of Thomas County District Court, P.O. Box 805, Colby KS 67701 Designee for the Board of Commissioners for any notice or permission for is Kevin N. Berens or Kim Schwarz.  
Phone: 785-460-4551
- C Premises: Approximately 4,500 square feet know as 1105 Taylor Avenue, Colby, Kansas 67701.
- D Lease Term: A period of 7 months commencing on December 1, 2020, (the "Commencement Date") and ending on June 30, 2021 (the "Expiration Date"), unless sooner terminated in accordance with the provisions of this agreement. "Extension Terms": At option of Tenant, Lease may be extended for a term of one (1) month for as many successive one month terms until the District Court can occupy its location at the Thomas County Justice Center.
- F Base Rent: \$10,500 payable on December 1, 2020 for the 7 month term and upon any monthly extension, \$1,500.00 payable on the first of each month in monthly installments in advance during the Lease Term. Rent shall be paid to Landlord or the Agent of the Landlord at 1085 Taylor Avenue, Colby, Kansas 67701, or at such other place as Landlord shall designate.
- G. Possession of Tenant shall be allowed access to premises to make necessary preparations for occupancy for the date of execution of this agreement, including but not limited to painting, cleaning, installation of data lines, and telephone lines and setting up work spaces.

## PAYMENT OF RENT:

2: Tenant agrees to pay Base Rent in ONE installment in advance on the first day of the term, with pro-ration for any partial month's occupancy, without demand, setoff, or deduction except Tenant shall pay the first monthly installment concurrently with the execution of this Lease. Any rent payment not received by Landlord within fifteen (15) days after its due date shall be subject to a delinquency charge of five percent (5%) of the amount due each full or partial calendar month the rent remains unpaid. Failure by Tenant to pay the late charge within ten (10) days after receipt of notice from Landlord that it is due shall, in addition to any other default, constitute a default of this lease by Tenant.

## POSSESSION

3: Landlord shall use due diligence to deliver possession of the Premises to Tenant as nearly as possible at the beginning of the term of this Lease.

Tenant shall have the right to terminate this Lease at any time during the term of the Lease by giving Landlord notice in writing of the terminating party's intention to terminate the Lease and said notice shall be given not less than 120 days prior to the termination date of said Lease.

## QUIET ENJOYMENT

4: Landlord hereby covenants that Tenant, upon paying rent as provided, and performing all covenants and agreements contained in this Lease to be performed by Tenant, shall and may peacefully and quietly have, hold and enjoy the Premises.

## ASSIGNMENT-SUBLETTING

5: Tenant shall not sublet, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest herein or any portion hereof, or permit or suffer any other person (the employees, agents, servants and invitees to Tenant excepted) to occupy or use the Premises, or any portion thereof, without the prior written consent of Landlord, which consent shall not be unreasonably withheld.

## USE

6: Tenant shall only use and occupy the Premises for the operation of court systems including but not limited to hold court proceedings and for no other purpose without the Landlord's prior written consent. Tenant agrees to maintain the Premises in a clean, orderly, healthful condition and to comply with all laws, ordinances, rules and regulations of all governmental agencies. Tenant will not use the Premises for any unlawful, disreputable, or extra-hazardous purpose; or any public or private nuisance; or disturb the quiet enjoyment of any other tenant; or permit any operation which might emit offensive odors into other portions; or use any apparatus which might make undue noise or set off vibrations; or permit anything which would increase the fire insurance rate or other insurance rates on the building or contents. Tenant will not permit the Premises to be used for any purpose which, in Landlord's opinion, impairs the reputation or character of the building. Tenant shall not install nor permit the installation of any signs in or upon the Premises which are visible from the exterior hereof without the written consent of Landlord. Tenant shall not obstruct or use the sidewalks, entries, passages, vestibules, halls, elevators, or stairways of the building for any purpose other than ingress or egress to and from the Premises, or throw, or sweep, or put anything out of the windows or doors, or in the passages or corridors of the building.

## REPAIRS AND IMPROVEMENTS

7: Landlord agrees that the Premises and all systems therein, shall be good working condition on day of possession. Tenant shall inspect and be satisfied with the physical condition of the Premises and services provided Commencement Date. Tenant acknowledges that there have been no representations, agrees or promises to decorate, alter, repair or improve the premises either before or after the execution of this Lease. Upon termination or expiration of this Lease, Tenant will surrender the Premises to Landlord, ordinary wear and tear excepted. Any damage to the Premises or building not covered by the proceeds from Landlord's fire and extended coverage insurance, resulting from acts or neglect of Tenant, his employees, agents, servants, invitees or guests, shall be repaired or replaced at Tenant's sole expense. The Tenant shall, during the term of this Lease and any renewal or extension thereof, at its sole expense, keep the interior of the demised premises in as good order and repair as it is at the date of commencement of this Lease, reasonable wear and tear excepted. The Tenant shall maintain in good working order and repair without limitation all plumbing, toilet facilities, interior and exterior doors, and other fixtures and equipment installed for the general supply of hot and cold water, heat, air conditioning and electricity within the demised premises. Landlord shall pay for any major repair to which shall be any repair which has a total cost of \$750.00 per occurrence. Landlord is responsible for outside structure and maintenance of building.

## ALTERATIONS

8: Tenant shall not alter or change the Premises without prior written consent of Landlord, and, unless otherwise provided in writing, all work shall be done by or under the direction of Tenant at Tenant's sole expense by a contractor employed by Tenant. Any alteration shall be of a quality equal to or exceeding the building standard. Landlord reserves the right to require any contractor to provide lien waivers or payment or performance bonds and liability insurance and such other instruments as may be necessary to protect Landlord against any loss, as shall be determined by Landlord in its sole discretion. Any alterations, physical additions or improvements, except movable office furniture, shall at once become property of Landlord and shall be surrendered to Landlord upon termination of this Lease. Landlord, at Landlord's option, may require Tenant to restore the Premises to its original condition at the termination of this Lease, normal wear and tear excluded. Notwithstanding anything herein to the contract, any increase in ad valorem taxes or insurance premiums resulting from such improvements shall be the sole responsibility of Landlord.

- a. Tenant is allowed to install all necessary data lines, telephone lines, and security systems.
- b. Tenant may install a sink, counter, and storage in the back area near the bathroom.

## UTILITIES

9: Tenant shall have all utility services put into their name and pay for such utility services when due on or before Commencement Date. Should Tenant become delinquent with any utility service and Landlord has to pay for delinquent utility charges in order for Premises to remain useable and undamaged, said charges shall, in addition to any other default, constitute a default of this lease by Tenant.

## ENTRY

10: Landlord, its officers, agents and representatives shall have the right to enter into and upon the Premises, at reasonable times to inspect same or clean or make repairs or alterations or additions as Landlord may deem necessary, or for any purpose whatsoever relating to the safety, protection or preservation of the building notice must be given to the Tenant at least 24 hours in advance. Tenant may restrict access if Tenant deems it would be a disruption to a court proceeding or other judicial function. Tenant shall allow for a reasonable alternative time for access. Landlord may and shall at all times, have master keys or pass keys to the Premises except the area used as a vault. Tenant shall not change any locks or install locks in the doors of the Premises, or install other devices or systems which would restrict access to the Premises, without Landlord's prior written consent. If Tenant shall not be present to open and permit entry into the Premises at any time, Landlord shall contact Judge Berens or Kim Schwarz to gain access or permission for access. Landlord shall further have the right to enter the Premises during business hours to exhibit same to prospective purchasers, lenders or tenants and to inspect the Premises to see that Tenant is complying with all of its obligations hereunder, or to make repairs or modifications to Premises, except that Tenant may deny or restrict access if Tenant deems it would be a disruption to a court proceeding or other judicial function. Tenant shall allow for a reasonable alternative time for access.

## CASUALTY

11: Commencing with the date of this Lease and continuing throughout the term hereof, as it may be extended, Landlord agrees to keep at its expense the Facility and any and all improvements, additions and alterations made by Tenant or anyone else upon the Premises insured with a reputable insurance company or companies reasonably satisfactory to Landlord, authorized to do business in Kansas. Any such policy shall contain a waiver of subrogation clause and shall provide protection against loss or damage by fire and by other perils commonly covered under the full standard extended coverage endorsement then in use, together with vandalism and malicious mischief coverage, coverage against damage caused by earthquake, and coverage against sprinkler damage.

Tenant shall maintain Content Insurance, Liability Insurance and any other insurance required by the State of Kansas for its operations. Landlord and its lenders, if any, shall be named as an additional insured or insureds on said policy or policies, and Tenant shall deliver to Landlord a certificate or other evidence of such insurance within ten (10) days following the date of signing of this Lease, which certificate or other evidence shall provide that the insurer will give Landlord at least thirty (30) days' written notice prior to any cancellation of or material change in said insurance. Tenant shall furnish to Landlord at all times during the term of this Lease and any extension thereof, a current certificate or duplicate copy of any such insurance policy or policies.

## LIABILITY

12. Tenant agrees to maintain at its expense in full force, during the entire term of this Lease, comprehensive general public liability insurance under which Landlord, its lender, if any, and Tenant are named as insured, and under which the insurer agrees to indemnify Landlord and hold it harmless from and against all cost, loss, damage, expense and/or liability arising out of or based upon any and all accidents, death, injuries and/or damages of any kind whatsoever to any person or any property howsoever occurring and claimed to have been suffered upon the Premises, the improvements thereon, or the sidewalks, driveway, or approaches immediately adjoining the same other than and excluding any acts or omissions to act of the Landlord and/or its agents constituting negligence. Landlord and its lenders, if

any, shall be named as an additional insured or insureds on said policy or policies, and Tenant shall deliver to Landlord a certificate or other evidence of such insurance within ten (10) days prior to possession, which certificate or other evidence shall provide that the insurer will give Landlord at least thirty (30) days' written notice prior to any cancellation of or material change in said insurance. Tenant shall furnish to Landlord at all times during the term of this Lease, and any extension thereof, a current certificate or duplicate copy of any such insurance policy or policies.

Landlord shall also maintain a liability insurance policy on Premises to cover all costs, loss, damage, expense and/or liability arising out of or based upon any and all accidents, death, injuries and/or damages of any kind whatsoever to any person or any property howsoever occurring and claimed to have been suffered upon the Premises due to any acts or omissions to act of the Landlord and/or its agents constituting negligence.

#### HOLDING OVER

13. In the event Tenant remains in possession of the Premises or any part thereof after the expiration or termination of this Lease, such possession and occupancy shall be conclusively deemed to be a tenancy from month-to-month only, with rent for any such term being the last rental amount under this Lease.

#### SUBORDINATION AND ATTORNMENT

14: A In the event of sale or other transfer by Landlord of the Premises, which sale or transfer involves the assignment and/or transfer of Landlord's interest in this Lease, then Tenant shall attorn to such purchaser and/or assignee or transferee upon any such sale or transfer and recognize such purchaser, assignee or transferee as Landlord under this Lease.

B Upon the request of any interested party, Tenant shall execute, acknowledge and deliver an instrument, in form and substance satisfactory to such party.

#### DEFAULT AND REMEDIES

15: In the event (each of which events as defined hereinafter shall be sometimes referred to as an "Event of Default"):

- 1 The Rent shall be unpaid on the date payment is required by the provisions hereof and shall remain so for a period of ten (10) days after Landlord gives Tenant written notice of such default; or
- 2 Tenant shall vacate the Premises or the improvements thereon or any substantial part thereof, and/or the Premises, or the improvements thereon, or a majority thereof becomes vacant or deserted; or
- 3 Any execution or attachment or other process of law shall be issued against Tenant or any of Tenant's property whereupon the Premises, or any part thereof, shall be taken or occupied by someone other than Tenant, its permitted subtenants, licenses, or concessionaires; or
- 4 Subject to the provisions of the federal or state bankruptcy laws, this lease, without the prior written consent of Landlord, or any interest therein, to the Premises, or the improvements thereon,

or any part thereof, or any estate hereby created, devolve upon or pass to any trustee, receiver, trustee in bankruptcy, debtor in possession, assignee, assignee for the benefit of creditors, appointee, or to any other person or entity by operation of law or otherwise; or

- 5 Tenant, without the prior written consent of Landlord, fails to observe or perform any of the covenants, terms or conditions set forth in Section 11.01 (relating to assignment and subletting); or
- 6 Tenant fails to perform any of the other terms, conditions, provisions, or covenants of this Lease to be observed and performed by Tenant for more than ten (10) days after Landlord gives Tenant notice of such default (it being agreed that a default which cannot be cured within said 10-day period shall be deemed cured within such period if Tenant commences the curing thereof within such 10-day period and completes the same with due diligence and without interruption);

then and upon the occurrence of any such Event of Default, Landlord shall have the right at any time, at its option, without further notice, and with or without process of law, and in addition to any and all other rights or remedies Landlord may have hereunder or otherwise: To terminate this Lease and the term thereof, and with or without process of law, to re-enter the Premises and the improvements thereon, either by force or otherwise, and without being in any manner liable therefore, and to take possession of said Premises and the improvements thereon and to remove all persons there from, and Tenant shall have no further claim therein or right hereunder; or

#### SURVIVAL OF OBLIGATION

16: The obligation of Tenant with respect to the payment of rent accrued and unpaid during the term of the Lease shall survive the expiration or earlier termination of the Lease.

#### HEADINGS

17: The titles and headings in the Lease are used only to facilitate reference, and in no way to define or limit the scope or intent of any of the provisions of this Lease.

#### ENTIRE AGREEMENT-AMENDMENTS

18: This Lease constitutes the entire agreement between the parties with respect to the Premises and this Lease covers, merges and includes all agreements, oral or written, between the parties hereto whether made prior to or contemporaneous with the execution of this Lease. This Lease cannot be modified or changed by any verbal statement, promise or agreement and no modification, change nor amendment shall be binding on the parties unless it shall have been agreed to in writing. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or persons may require.

#### SEVERABILITY

19: In the event any provisions of this Lease be officially found to be contrary to law, or void as against public policy or otherwise, such provisions shall be either modified to conform to the law or considered severable with the remaining provisions hereof continuing in full force and effect.

SUCCESSORS AND ASSIGNS

20: It is agreed that all the covenants, agreements and conditions herein contained shall extend to, and be binding upon, the respective successors, heirs, executors, administrators, assigns, receivers or other personal representatives of the parties to this Lease.

NOTICES

21: Any and all notices required or permitted to be given hereunder shall be served either personally or by United States Mail, postage prepaid (and if permitted by law, by Registered, Certified, or Express Mail) at the addresses at set forth under Basic Provisions on Page 1. Each such notice shall be deemed given as of the date it is so deposited in the United States Mail.

TIME OF THE ESSENCE

22: Time is of the essence of this Lease Agreement.

IN WITNESS WHEREOF, Landlord and Tenant, acting herein by duly authorized individuals, have caused this instrument to be executed in 3 originals, on the 23<sup>rd</sup> day of November, 2020.

LANDLORD

SOUTHWIND PLAZA, INC.

By:   
Linda Kay Taylor, Secretary

TENANT

THOMAS COUNTY BOARD OF COMMISSIONERS

By: 

By: 

By: 

Date: 11/24/2020

Date: 11-23-2020