

**AGREEMENT
FOR OPERATION OF THE
AIR TRAFFIC CONTROL TOWER
AT THE TRUCKEE TAHOE AIRPORT**

This AGREEMENT FOR OPERATION OF THE AIR TRAFFIC CONTROL TOWER SERVICES AT TRUCKEE TAHOE AIRPORT (“Agreement”) is made and entered into on this 1st day of June, 2018 (“Effective Date”) by and between the Truckee Tahoe Airport District (District) and Midwest ATC Service, Inc. (“Midwest ATC”), a Kansas corporation with offices at 7285 W. 132nd St., Suite 340, Overland Park, Kansas 66213.

IN CONSIDERATION of the mutual promises, covenants, understandings and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follow:

Section 1. Purpose

District, as operator of the airport (the “Airport”) in Truckee, California desires a control tower operation equal to or comparable with the same type of airport traffic control tower service provided by the Federal Aviation Administration (“FAA”). Midwest ATC is ready, willing, and able to provide the services desired by the “Airport”.

It should be understood by the parties that it may be the desire of the Airport to enter the Federal Aviation Administration Contract Tower (FCT) Program at some future point. At present the Airport tower will operate as a Non Federal Control Tower (NFCT) under this Agreement as provided for herein or until such time the Airport qualifies and enters into the FCT Program.

Section 2. Responsibilities of Midwest ATC

(a) Air Traffic Control Tower

Midwest ATC has provided a mobile tower cab approximately 14 feet in height by 23 feet long, 12 feet wide. This tower cab has been placed and equipped by Midwest ATC and is fully configured to provide services outlined within this Agreement. District is responsible for services as reasonably necessary for provision of telephone, data, power, water, sewer and other services necessary to support tower operation.

(b) Provision of Air Traffic Services

Midwest ATC will provide all air traffic services required of a Visual Flight Rule (VFR) Tower including tower and ground control, within the National Airspace System (NAS). Midwest ATC personnel will be properly qualified, trained and certified (per FAR 65) to provide visual flight rules sequencing between landing and departing aircraft and aircraft in the local traffic pattern, transfer control of aircraft to adjacent facilities when the aircraft leaves the traffic pattern/Class D or E , and receive control of aircraft coming into the traffic pattern/Class D or E airspace from adjacent facilities. Midwest ATC will comply with guidelines and directives set forth in the local operating procedures, FAA Order JO 7110.65 and FAA Order JO 7210.3.

(c) Staffing Plan

Midwest ATC will provide appropriate personnel for all required hours of operation. The Staffing will be provided to the District based on the proposed schedule:

January	7 AM to 6 PM	11 hours
February	7 AM to 6 PM	11 hours
March	7 AM to 6 PM	11 hours
April	7 AM to 7 PM	12 hours
May	7 AM to 7 PM	12 hours
June	7 AM to 8 PM	13 hours
July	7 AM to 8 PM	13 hours
August	7 AM to 8 PM	13 hours
September	7 AM to 8 PM	13 hours
October	7 AM to 6 PM	11 hours
November	7 AM to 6 PM	11 hours
December	7 AM to 6 PM	11 hours

Schedules for each time period will be included as Appendix A.

General Responsibilities

- 1) Midwest ATC is an independent contractor. As such, Midwest ATC shall be responsible for the hiring of any and all employees necessary for the operation of the Control Tower. Midwest ATC and its employees shall comply with all laws and regulations. If any law or regulation mandates a significant adjustment in the cost of employee compensation, the parties shall negotiate an equitable and appropriate adjustment in the amount paid to Midwest ATC.
- 2) No portion of the Services shall be curtailed or delayed because a controller is performing non-control duties. All radio intercom, landline transmission and operational telephone calls shall be responded to in a timely manner.
- 3) The tower manager shall meet with the Airport representative(s) as reasonably requested.
- 4) Midwest ATC shall record traffic counts daily, monthly and quarterly and provide counts to the Airport as required by this Agreement or upon request by the Airport.
- 5) Midwest ATC shall not discriminate on the basis of race, color, creed, religion, sex or national origin, against any person or group of persons in any manner prohibited by Title 49, Code of Federal Regulations, Department of Transportation, Sub-title A, Office of the Secretary, Part 21, or as otherwise provided by law. Midwest ATC agrees the Airport may take such action against Midwest ATC as is necessary to enforce this provision.
- 6) Midwest ATC shall support the reasonable, safe, and efficient application of the Airport's:
 - a. Voluntary Noise Abatement Procedures.
 - b. Letters of Agreement related to runway use programs such as preferred or calm wind runways.
 - c. Use of FAA approved visual flight procedures designed to reduce community annoyance.
 - d. Use of FAA approved instrument departure and arrival procedures that, when used, may reduce community annoyance.
 - e. Altitude restriction protocol designed to reduce community annoyance.

(d) Designating and Gaining FCC Approval

Midwest ATC has gained all necessary approval, licenses, permits and authorizations for establishing a tower frequency and ground frequency for use while the tower is operation.

Section 3. Responsibilities of The Airport

The Airport shall provide:

- (a) Access to the Midwest ATC equipped air traffic control tower (hereafter Tower) at the Airport to be used for providing Services as hereafter defined.
- (b) Maintenance of all Airport property.
- (c) Access to electrical, water, sanitation, and telephone service reasonably necessary for operation of the Tower.
- (d) The airport shall provide all weather observation and reporting services. Midwest ATC will not provide either primary or supplemental weather observation or reporting services.

Section 4. Compensation

(a) For the Services to be rendered under this Agreement, the airport shall pay to Midwest \$799,725.32 for the period of June 1, 2018 through May 31, 2019, 822,182.08 for the period of June 1, 2019 through May 31, 2020, and 848,203.70 for the period of June 1, 2020 through May 31, 2021, for all staffing cost whether direct or indirect, all incidental, travel, training, certification, surety, insurance, or regulatory driven expense related to performance of the work or job outlined within this contract. This amount will be billed incrementally on a monthly basis in arrears beginning June 1, 2018. For the Services to be rendered under this Agreement, Midwest ATC will provide the use of the tower structure for a monthly cost of \$3,000.00, which is included in the price referenced above.

Section 5. Term

- (a) The term of this Agreement shall be for the period beginning June 1, 2018 through May 31, 2021, and can be extended annually thereafter.
- (b) If the FAA should decide to provide airport traffic control services at the Airport, using federal employees, this Agreement shall terminate upon the Airport giving thirty (30) days prior written notice to Midwest ATC. Midwest ATC shall use its best efforts to coordinate termination of its Control Tower services with the transfer to the FAA of airport traffic control services. In any event, this Agreement will remain effective until Midwest ATC ceases actual operation of the Control Tower upon receipt of such written notification by the Airport or FAA.
- (c) This agreement may be terminated upon 90 days written notice by either party.

Section 6. Indemnity

Notwithstanding any limitation regarding indemnity and/or contribution which exists under the laws of the State of California, the parties agree the Airport shall not be responsible for damages or injuries to persons that may arise from or be incident to the performance of this Agreement, or for damages to the property of Midwest ATC or for injuries to Midwest ATC or its officers, agents, servants or employees, or others who may be on Airport premises at their invitation or the invitation of any one of them, arising from or incident to the performance of this Agreement. Midwest ATC shall defend, indemnify and hold the Airport, its employees, agents and representatives harmless against any and all liability, claims, demands, and cost of whatever nature, including attorneys' fees, for injury to or death of person or persons, and for loss or damage to property, occurring in connection with or in any way incident to or arising out of acts or omissions of Midwest ATC officers, agents, servants, or employees in the performance of this Agreement and use of Airport premises and facilities; provided, however, the provisions of this section do not apply where damage to property or injury to persons arises in whole or part from acts or omissions of others not under the control of Midwest ATC.

Section 7. Insurance

Midwest ATC shall maintain comprehensive general liability insurance, aviation liability insurance and any statutorily required insurance, naming the Airport, its officers, agents, directors, and employees as additional insured, except as otherwise required by statute, in the following minimum amounts:

Aviation Liability Insurance	\$10 Million per occurrence
Workers' Compensation	Per California State Law

Aviation liability insurance shall include personal injury and accident coverage. This policy shall cover only the air traffic control operations at the Airport. Each applicable minimum coverage shall apply to each occurrence. A certificate showing the required insurance to be in full force and effect shall be provided to the Airport prior to the commencement of Services under this Agreement. Midwest ATC shall require its insurer to notify the Airport in writing at least thirty (30) days prior to cancellation, modification or refusal to renew such policy.

Section 8. Miscellaneous

- (a) Midwest ATC may not assign this Agreement or any of its obligations hereunder, without the Airport's written consent. The Airport is under no obligation to consent to any assignment.
- (b) Midwest ATC, its officers, agents, employees and any other persons over which Midwest ATC has control, shall comply with all laws, rules and regulations, and amendments or supplements thereto, governing or relating to the use of the Airport, Services to be rendered under this Agreement or including, as may from time to time be promulgated, "the Airport rules and regulations regarding health, safety, sanitation and good order that are not inconsistent with applicable rules and regulations of any Federal, State, local governmental bodies.
- (c) This Agreement shall be governed in all respects and the legal relationships between the parties shall be determined in accordance with the law of the State of California without regard to the internal conflicts of laws, statutes or case law thereof which would otherwise govern the

law applicable to this Agreement. If any term or provision of the Agreement shall be determined to be invalid or unenforceable, the remainder of this Agreement and any other application of such term or provision shall not be affected thereby.

(d) This Agreement supersedes all prior agreements, understandings, and negotiations, written, or oral, between the parties with respect to its subject matter. Neither this Agreement nor any term or provision hereof may be changed, waived, discharged or terminated, except by a writing signed by both parties.

(e) The terms and provisions of this Agreement shall be binding upon Midwest ATC, its successors and assigns, and shall inure to the benefit of the Airport, its successors and assigns.

(f) This Agreement has been drafted by both parties, and shall not be interpreted in favor of or against either party.

(g) In any legal action or proceeding related to this Agreement, the tribunal shall award the prevailing party attorneys' fees, costs, and expenses, including those incurred on appeal and in the enforcement of judgment.

(h) Notices to the parties shall be given at the below addresses, unless and until a party designates in writing some other place

For the Airport: Kevin Smith A.A.E
10356 Truckee Airport Road
Truckee, CA 96161

For Midwest ATC: Midwest ATC Service, Inc.
Attn: DeAnna Dresel
7285 W. 132nd St. Suite 340
Overland Park, KS 66213

The signatories to this Agreement verify they have read the complete Agreement, understand its contents, and have full authority to bind and do hereby bind their respective parties.

IN WITNESS WHEREOF, the parties have hereunto set their hands and signatures, the day and year above mentioned.

Truckee Tahoe Airport District

Midwest ATC Service, Inc.

By _____
Board President

By _____
DeAnna Dresel, Executive Vice President

ATTEST

By _____

APPROVED AS TO FORM:

By _____
Brent Collinson District Counsel

By _____
Midwest ATC Counsel