

**GROUND LEASE AT AIRPORT**

THIS LEASE is entered into effective \_\_\_\_\_, 20\_\_\_\_ (“Effective Date”), between City of Ocala, a Florida municipal corporation (“Landlord”), and \_\_\_\_\_ a \_\_\_\_\_ (“Tenant”).

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the parties do hereby agree as follows:

**1. Lease of Premises.**

- 1.1. Landlord leases to Tenant, and the Tenant leases from Landlord, real property located in Marion County, Florida, and all improvements now or hereafter located thereon (collectively the “Premises”) as follows: The real property (“Property”) described in the attached **Exhibit A** and consisting of approximately \_\_\_ acres.
- 1.2. The Premises are located at the Ocala International Airport (“Airport”) owned and operated by Landlord.
- 1.3. This Lease includes the right of ingress and egress to and from the Premises by means of existing means of ingress and egress across the Airport to be used in common with others having similar rights of passage thereon (except when the Airport is closed to the public). The use of any such means of ingress and egress is subject to the present and future rules and regulations of the Airport. Landlord may, at any time, temporarily or permanently close such means of ingress and egress so long as an alternative means of ingress and egress remains available to Tenant. Tenant shall not do or permit anything to be done which will interfere with the free access and passage of others to space adjacent to the Premises or in any streets near the Premises.

**2. Term.**

- 2.1. The term of this Lease is thirty (30) years, beginning on \_\_\_\_\_, \_\_\_\_\_ and ending at 5:00 pm on \_\_\_\_\_, \_\_\_\_\_.
- 2.2. So long as Tenant is not in default under this Lease, Tenant has the right to renew the term of this Lease for two (2) additional terms of five (5) years each. Each renewal shall automatically occur unless Tenant gives written notice of non-renewal to Landlord at least 180 days prior to the expiration of the initial term of this Lease (as to the first renewal) or any then-current renewal term (as to any subsequent renewal). All terms and conditions that govern the initial term shall govern any renewal term, except as expressly set forth herein.

3. **Feasibility Study.** Tenant may, during the period commencing with the execution of this Lease by Tenant and concluding 90 days after the Effective Date (the “Feasibility Study Period”), determine whether the Property is suitable, in Tenant’s sole and absolute discretion, for Tenant’s use. Tenant may conduct a Phase I environmental assessment and any other tests, analyses, surveys and investigations (“Inspections”) that Tenant deems necessary to determine, to Tenant’s satisfaction, the Property’s engineering, architectural and environmental properties; zoning and land use restrictions; subdivision status; soil and grade; availability of access to public roads, water and other utilities; consistency with local, state and regional growth management plans; availability of permits, governmental approvals and licenses; and other Inspections that Tenant deems

appropriate to determine the Property's suitability for the Tenant's intended use. Landlord gives Tenant, its agents and other representatives, the right to enter the Property at any time during the Feasibility Study Period for the purpose of conducting Inspections. Landlord shall fully cooperate with Tenant and its professionals in connection with the foregoing. Tenant shall deliver written notice to City prior to the expiration of the Feasibility Study Period if Tenant determines the Property is not acceptable, in which event this Lease shall be deemed canceled and of no further effect.

#### 4. **Rent.**

4.1. During the term of this Lease, Tenant shall pay monthly rent as follows:

4.1.1. Tenant shall commence paying monthly rent upon issuance of a Certificate of Occupancy for the hangar to be constructed thereon by Tenant, or Two Hundred Forty (240) days after issuance of all permits by all governmental agencies necessary to allow such construction, whichever shall first occur. In connection therewith:

- a. Tenant shall apply for all necessary permits for the hangar within ninety (90) calendar days after approval of this Lease by the Landlord and make good faith efforts to obtain all necessary permits as soon as possible.
- b. Tenant shall commence construction of the hangar within ninety (90) days of issuance of such permits.
- c. Tenant shall complete construction of the hangar within two hundred forty (240) days after issuance of such permits.

4.1.2. Tenant shall pay monthly rent, after the date that rent payments are to commence pursuant to paragraph 4.1.1, in the following amounts:

- a. Until December 31, 20\_\_\_\_, the monthly rent shall be \_\_\_\_\_ (\$\_\_\_\_\_) per month; and

b. Commencing on January 1, 20\_\_\_\_, and on each January 1 thereafter, the monthly rent shall be increased by an amount equal to three (3%) percent of the prior year's monthly rent.

4.2. The monthly rent is payable without Landlord's demand on the first day of each calendar month during the Lease term. If rent payments commence on a day other than the first day of a calendar month, or terminate on a day other than the last day of a calendar month, the rent will be prorated on a daily basis.

4.3. All rent payable under this Lease shall be paid to Landlord without set-off or withholding for any reason and shall be mailed or delivered to Landlord at Landlord's address as set forth elsewhere in this Lease, or such other address of which Landlord shall notify Tenant, so that it is received prior to the date it is due.

#### 5. **Additional Payments.**

- 5.1. Additional Rent Payments. In addition to the rent under paragraph 4, all other payments that the Tenant is obligated to make under this Lease are considered additional rent, regardless of whether the payments are so designated. All additional payments are due and payable at the time the Landlord demands payment or at the time the next succeeding rent installment is due, whichever occurs first. Landlord shall have the same remedies for Tenant's failure to pay additional rent as it does for Tenant's failure to pay monthly installments of rent. All further references to "rent" shall include both monthly installments of rent and additional rent. The provisions of this paragraph shall apply only concerning remedies, and not concerning rent upon which sales and use taxes are to be calculated or paid.
- 5.2. Utility or Service Charges. The Tenant agrees to pay all charges for gas, electricity or other illumination, heating, air conditioning, water, sewer, telephone service and other utilities attributed to the Premises.
- 5.3. Ad Valorem Taxes and Assessments.
- 5.3.1. Tenant shall pay as additional rent during the term of this Lease all ad valorem and real property taxes and all special assessments levied or assessed by any lawful authority against the Premises. In the event any governmental authority having jurisdiction shall levy any general or special assessment against the Premises, Tenant shall also pay to Landlord as additional rent such assessment. Landlord shall have the option to take the benefit of any statute or ordinance permitting any such assessment for public betterments or improvements to be paid over a period of time in which case the Tenant shall be obligated to pay only the said fraction of the installments of any such assessments which shall become due and payable during the term of this lease.
- 5.3.2. Landlord may, at its sole discretion, estimate the taxes and assessments referred to in this paragraph and require Tenant to pay one-twelfth (1/12th) thereof monthly in advance, together with the payment of fixed minimum annual rent. After the end of each Lease year, Landlord shall furnish Tenant a statement of the actual taxes and assessments, and there shall be an adjustment between Landlord and Tenant with payment to or repayment by Landlord, as the case may require, to the end that Landlord shall receive the entire amount of Tenant's proportionate share for such annual period.
- 5.4. Sales and Use Taxes. At the time rent payments are made, the Tenant agrees to pay to the Landlord any sales and use taxes that arise because of payment of rent to the Landlord.
- 5.5. Past Due Rent. If any monthly rental payment is not paid on or before the tenth (10th) day of each month, such payment shall bear interest at ten percent (10%) per annum. A payment is considered late if received ten (10) business days or more after such payment is due. Any payment not received when within ten (10) business days after each month shall be deemed a default under this Lease.) If payment made by check is dishonored by Tenant's bank, the amount due shall be deemed a "late payment" and treated as set forth herein.
- 5.6. Amounts Advanced by Landlord. Any amount advanced by Landlord pursuant to the terms and provisions of this Agreement shall be repaid to Landlord by Tenant by the first of the calendar month following the date of such advance unless otherwise specifically provided in this Agreement.

5.7. Tenant's Taxes. Tenant further covenants and agrees to pay promptly when due all taxes assessed against all fixtures, furnishings, equipment and stock-in-trade placed in or on the Premises during the term of this Lease.

6. **Landlord's Services, Utilities and Taxes.**

6.1. Tenant shall obtain, at its sole cost and expense, all utilities (e.g., without limitation, electricity, telephone, water, sewer, and trash collection services) service for the Premises. Tenant shall be responsible for all costs associated with extending utility lines from their current point of termination to improvements to be constructed by Tenant hereunder.

6.2. Landlord shall not be liable for full or partial stoppage or interruption of the above services or utilities unless negligence on the part of Landlord shall be shown, and Landlord shall not be liable for consequential damages in any event.

7. **Use of Premises.**

7.1. Tenant shall have the right to use the Premises for the following and for no other purpose without Landlord's prior written consent, which consent may be withheld by Landlord in its sole discretion:

7.1.1. Storage and maintenance of aircraft that are either owned or leased by Tenant.

7.1.2. Storage of aviation fuel, lubricants, aircraft parts and other items of personal property necessary for Tenant's use to maintain and operate aircraft owned or leased by Tenant, provided that all such items of personal property, other than gasoline, shall be contained within improvements to be constructed by Tenant on the Premises. No explosives or combustible materials will be permitted within or about any improvements except for fuel in aircraft tanks or small containers of lubricants, cleaning materials, and other aviation-related materials stored in containers or cabinets that have been approved by the EPA or local Fire Marshall.

7.1.3. Construction on the Premises of private offices attached to hangar.

7.1.4. At the discretion of the Landlord (which may be withdrawn at any time), nonexclusive use of all airport facilities which are not specifically leased to other tenants under private leases.

7.2. Tenant shall not sell nor dispense from mobile fuelers or other typical fueling devices without the express written permission from the Airport Director, which may be withheld or conditioned in the Airport Director's sole discretion, aviation fuels of any kind upon the Premises or otherwise at the Airport.

7.3. No outside storage shall be allowed. All areas not paved or covered by the Improvements shall be grassed and landscaped as approved.

7.4. Tenant agrees that no business shall be carried on, nor any act or acts done or permitted to be done on the Premises that in any manner conflicts with any applicable valid law or regulation of the City of Ocala, Marion County, State of Florida, and the United States of America or any department, bureau or agency thereof.

- 7.5. Tenant will not do or suffer to be done in or upon the Premises any act or thing which amounts to a nuisance or creates waste to the Premises.
- 7.6. Tenant shall not produce any disturbances on any Airport property that interferes with the operation by the Landlord or the Federal Aviation Administration of air navigational communications or flight equipment on the Airport.
- 7.7. Tenant shall comply with all present and future written instructions of the Landlord in disposing of its trash and refuse at Tenant's expense and shall use a system of refuse disposal approved by the Landlord.
- 7.8. Tenant shall not do nor permit to be done any act or thing upon the Premises, which may constitute a hazardous condition so as to increase the risks attendant upon the operations permitted by this Lease.
- 7.9. Nuisance/Hazardous Substances.
- 7.9.1. Tenant shall not commit any nuisance, nor permit the admission of any objectionable noise, or odor, nor burn any trash or refuse within the Premises, nor bring on, deposit or allow to be brought on or deposited on the Premises any asbestos materials or any other Hazardous Substance, except as permitted above, or materials as the same may be defined by State, Federal or local laws, rules, statutes, or regulations; nor make any use of the Premises or any part thereof or equipment therein which is improper, offensive or contrary to any law.
- 7.9.2. Tenant shall not cause or commit any Hazardous Substance to be used, stored, generated or disposed of on or in the Premises by Tenant, Tenant's agents, employees, contractors, invitees, without first obtaining Landlord's written consent. If Hazardous Substances are used, stored, generated, or disposed of on or in the Premises except as permitted above, or if the Premises become contaminated in any manner for which Tenant is legally liable, Tenant shall indemnify and hold harmless the Landlord from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including, but without limitation, a decrease in value of the Premises, damages due to loss or restriction of rentable or usable space or any damages due to adverse impact on marketing of the space, and any and all sums paid for settlement of claims, attorneys' fees, consultant and expert fees, and costs) arising during or after the Lease Term and arising as a result of such contamination by Tenant. Without limitation of the foregoing, if Tenant causes or permits the presence of any Hazardous Substance on the Premises and such results in contamination, Tenant shall promptly, at its sole expense, take any and all actions necessary to return the Premises to the condition existing prior to the presence of any such Hazardous Substance on the Premises. Tenant shall first obtain Landlord's approval for any such remedial action.
- 7.9.3. As used herein "Hazardous Substance" means any substance which is toxic, ignitable, reactive, or corrosive and which is regulated by any local government, the State of Florida, or the United States Government. "Hazardous Substance" includes any and all material or substances which are defined as "Hazardous Substance" pursuant to State, Federal, or local government law. "Hazardous Substance" includes, but is not restricted to, asbestos, polychlorobiphenyls ("PCB's") and petroleum.

**8. Improvements.****8.1. Tenant's Right to Construct Buildings and Other Improvements.**

8.1.1. Tenant shall have the right to construct structures, buildings, and other improvements ("Improvements") on the Premises, at Tenant's sole cost and expense, pursuant to paragraph 7 above. In connection with any construction, Tenant shall be permitted to grade, level, and fill the land, remove trees and shrubs, install roadways and walkways, and install utilities, provided all of the foregoing serve the Improvements erected on the Premises. Landlord shall have no liability for any costs or expenses in connection with the construction of Improvements on the Premises. All improvements shall be in accordance with the applicable building codes and other laws and ordinances.

8.1.2. Tenant shall submit plans to Landlord in advance of construction of any proposed Improvements before construction may begin. Plans shall reasonably comply with existing improvements of others at the Airport. Approval of said plans shall not be unreasonably delayed or withheld. Tenant shall not be required to apply for permits until the plans are approved by the Landlord.

8.1.3. Landlord shall cooperate with Tenant to facilitate timely execution of required documents, permits, legal descriptions, permit approvals or other matters requiring Landlord's consent.

8.1.4. Tenant coordinate stormwater permitting with the City of Ocala Stormwater Division and if practical, utilize regional stormwater ponds located at Ocala International Airport.

8.2. Signage. Tenant may display in, on, or above the Premises any sign or decoration, the nature of which is permitted by applicable law and is not dangerous, unsightly or detrimental to the Premises. At the termination of this Lease, Tenant shall if so requested by landlord, remove any signs it has placed on the Premises, repairing any damage caused thereby.

8.3. Fencing. Tenant acknowledges that all fencing must comply with applicable security requirements.

**8.4. Tenant's Delivery of Possession After Termination or Expiration.**

8.4.1. On the expiration or early termination of this Lease (the "Expiration Date"), Tenant shall promptly quit and surrender the Premises and Improvements, and deliver to Landlord actual possession and ownership of the Premises and Improvements in good order, condition, and repair.

8.4.2. Tenant shall have the right to remove from the Premises and Improvements all movable trade fixtures, movable equipment, and articles of personal property used or procured for use in connection with the operation of its business on or before the Expiration Date, provided that Tenant shall promptly repair, or cause to be repaired, any damage resulting to the Premises or Improvements by reason of this removal. Any trade fixtures, equipment, or articles of personal property of Tenant that remain at or on the Premises after the Expiration Date shall be deemed to have

been abandoned by Tenant, and may either be retained by Landlord as its property or disposed of by Landlord without accountability to Tenant for the value of these trade fixtures, equipment, or articles of personal property, or any proceeds derived from the sale of these items.

9. **Condition of Premises.**

9.1. Tenant's Acceptance and Maintenance of Premises. UPON TENANT'S OCCUPANCY OF THE PREMISES, TENANT WILL BE DEEMED TO HAVE ACCEPTED THE PREMISES IN THE CONDITION THEY ARE IN ON THAT DATE "AS IS" AND WITH NO ADDITIONAL WARRANTIES, EXCEPT AS EXPRESSLY SET FORTH HEREIN. Subject to Landlord's obligations set forth in this Lease, Tenant agrees to maintain the Premises in the same condition, order, and repair as they are on that date, except for reasonable wear and tear arising from the use specified in this Lease.

9.2. Obligations to Repair.

9.2.1. Tenant shall, at its own expense and risk, maintain the Premises and all Improvements in good repair and condition at all times, including, without limitation, the interior and exterior of the Premises and Improvements, the roof, exterior walls and air-conditioning system. Tenant shall keep the Premises and Improvements in a clean, sanitary and safe condition at all times. The plumbing and other facilities shall not be used for any other purposes than that, for which they were constructed, and no foreign substances of any kind shall be deposited in the plumbing or other facilities, and the expense of any breakage, stoppage or damage resulting from the violation of this provision by Tenant shall be borne by the Tenant. In the event Landlord incurs any expense for repairs or maintenance that are the duty of Tenant to perform, Landlord may demand repayment of same from Tenant, and Tenant shall make payment within ten days after the demand as additional rent.

9.2.2. Landlord shall not be liable for any damage or inconvenience that may arise through repair or alterations of any part of the Premises or Improvements.

9.2.3. Tenant shall replace all electric light bulbs and tubes in the electrical fixtures in the Premises or Improvements as shall be necessary.

9.2.4. If Tenant fails to perform its obligations to repair or maintain according to the provisions of the preceding subparagraphs above within a reasonable time after notice from Landlord of the need for such repair or maintenance (or immediately if the failure to perform repairs or maintenance endangers the safety of persons or property), Landlord may, in addition to all other remedies available under this Lease, make the repairs or perform the maintenance, or have the repairs made or maintenance performed at its own expense. Tenant shall, within ten (10) days of Landlord's demand, reimburse Landlord for the reasonable and actual expense of the repair or maintenance.

9.3. Damage to Premises. On the Landlord's demand, the Tenant shall pay for all damages to the Premises, the Improvements, or any portion thereof that are caused by any negligent act or omission of the Tenant, its invitees, or any persons in the Tenant's employ or control.

- 9.4. Condition at End of Term. At the earlier of the expiration of the Lease term or the termination of this Lease, the Tenant will quit the Premises and will surrender them to the Landlord. The Tenant will remove all personal and other property that belongs to the Tenant under this Lease and will repair all damages to the Premises or Improvements caused by that removal.
- 9.5. Landlord Not Responsible. Except for the negligence of Landlord or Landlord's employees, agents or contractors, Landlord shall not be responsible for any damage to property of Tenant or of others located in or about the Premises nor for the loss of or damage to any property of Tenant or of others by theft or misappropriation or otherwise. Landlord shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or leaks from any part of the Premises or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place or by dampness or by any other cause of whatever nature. Landlord shall not be liable for any such damage caused by occupants of adjacent property, occupants of the Improvements, or the public.
10. **Entry and Inspection of Premises.**
- 10.1. The Landlord is entitled to enter the Premises during a reasonable hours, upon reasonable notice to Tenant for the following reasons:
- 10.1.1. To provide services, fulfill other obligations or exercise rights hereunder.
- 10.1.2. To examine the Premises.
- 10.1.3. To make all repairs, additions, or alterations that the Landlord or agent deems necessary for safety, comfort, or preservation of the Premises or of the building.
- 10.1.4. To remove signs, fixtures, alterations, or additions that do not conform to this Lease.
- 10.2. Landlord shall have the right to use any means that Landlord may deem proper to open doors in an emergency situation that is immediately jeopardizing persons or property in order to reasonably obtain entry to the Premises. Tenant waives any claim for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss in, upon, or arising from Landlord's entry onto the Premises in the event of such an emergency.
- 10.3. Any entry to the Premises obtained by Landlord for any of the above stated purposes and by any of such means, or otherwise, shall not be construed or deemed a forcible or unlawful entry onto the Premises, or an eviction of Tenant from the Premises or any part of the Premises manner, and during an event of emergency.
- 10.4. In the event that any personal property of Tenant shall obstruct the access of the Landlord, its officers, employees, agents or contractors or the utility company furnishing utility service to any of the existing utility, mechanical, electrical and other systems and thus shall interfere with the inspection, maintenance or repair of any such system, Tenant shall move such property as directed by Landlord or such utility company in order that access may be had to the system or part thereof for inspection, maintenance or repair. If Tenant shall fail to so move such property, after direction notice from the Landlord or such utility company

to do so, the Landlord or the utility company may move it and Tenant hereby agrees to pay the cost of such moving upon demand. The exercising of this right of the Landlord shall not be construed to be an eviction of Tenant, nor be made the grounds for any abatement of rental.

## 11. Insurance, Indemnity.

### 11.1. Indemnification.

11.1.1. Tenant shall hold the Landlord harmless from, and indemnify Landlord against, any and all liability, damages, out of pocket costs and reasonable attorneys' fees, injury, actions or causes of action whatsoever:

- a. Suffered or occasioned upon the Premises or arising out of the operation, conduct and use of the Premises, except those caused or created by Landlord, or its agent, employees or contractors;
- b. For any injury to or death of any person or persons or damage to property caused by the negligence or willful misconduct of Tenant, or its invitees, agents or employees, or by a default by Tenant under this Lease; or
- c. Resulting from any generation, use, treatment, storage or release of any hazardous or toxic materials or substances or wastes at the Premises by Tenant or its agents during the Lease term or resulting from any violation during the Lease term of any environmental laws, rules or regulations applicable to the Premises or any operation conducted thereon.

11.1.2. Tenant's grant of indemnity to Landlord hereby survives expiration of this Lease.

11.2. Defense of Landlord. In the event any action or proceeding shall be brought against Landlord by reason of any matter for which Landlord is indemnified hereunder, Tenant shall, upon notice from Landlord, at Tenant's sole cost and expense, resist and defend the same, provided however, that Tenant shall not admit liability in any such matter on behalf of Landlord without the written consent of Landlord and provided further that Landlord shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without the prior written consent of Tenant which may not be unreasonably withheld.

11.3. Disclaimer of Liability. Landlord shall not be liable for injury or damage occurring to any person or property arising out of this Lease, or as a result of Tenant's possession of the Premises, including, without limitation, harm or personal injury to Tenant or third persons during Tenant's possession of the Premises or the term of this Lease, except in the event any such injury or damage is caused as the direct result of Landlord's negligence or willful misconduct.

### 11.4. Notice, Cooperation, and Expenses.

11.4.1. Landlord shall give Tenant prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this paragraph. Nothing herein shall be deemed to prevent Landlord from cooperating with Tenant and participating in the defense of any litigation by

Landlord's own counsel. Tenant shall pay all reasonable expenses incurred by Landlord in response to any such action, suits, or proceedings. These expenses shall include all out-of-pocket expenses such as reasonable attorney fees and shall also include the reasonable value of any services rendered by Landlord's attorney, and the actual expenses of Landlord's agents, employees, or expert witnesses, and disbursements and liabilities assumed by Landlord in connection with such suits, actions, or proceedings but shall not include attorney's fees for services that are unnecessarily duplicative of services provided Landlord by Tenant.

11.4.2. If Tenant requests Landlord to assist it in such defense then Tenant shall pay all expenses incurred by Landlord in response thereto, including defending itself with regard to any such actions, suits, or proceedings. These expenses shall include all out-of-pocket expenses such as reasonable attorney fees and shall also include the costs of any services rendered by Landlord's attorney, and the actual expenses of Landlord's agents, employees, or expert witnesses, and disbursements and liabilities assumed by Landlord in connection with such suits, actions, or proceedings.

11.4.3. Tenant shall give Landlord prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this paragraph.

## 12. Insurance.

12.1. As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the Tenant, at the Tenant's sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the Tenant. The Tenant shall provide the Landlord a certificate of insurance evidencing such coverage. The Tenant's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the Tenant shall not be interpreted as limiting the Tenant's liability and obligations under this Agreement. All insurance policies shall be from insurers authorized to write insurance policies in the State of Florida and that possess an A.M. Best rating of A-, VII or better. All insurance policies are subject to approval by the Landlord's Risk Manager.

12.2. The coverages, limits, and endorsements required herein protect the interests of the Landlord and these coverages, limits, and endorsements may not be relied upon by the Tenant for assessing the extent or determining appropriate types and limits of coverage to protect the Tenant against any loss exposure, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the Landlord's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Tenant under this Agreement.

12.3. The following insurance policies and coverages are required:

### 12.3.1. Commercial General Liability.

- a. Coverage must be afforded under a Commercial General Liability policy with limits not less than:
  - 1). \$2,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury

- 2). \$2,000,000 each occurrence and \$2,000,000 aggregate for Products and Completed Operations
- b. Policy must include coverage for Contractual Liability and Independent Contractors.
  - 1). The Landlord and the Landlord's officers, employees, and volunteers are to be covered as additional insureds with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Tenant. The coverage shall contain no special limitation on the scope of protection afforded to the Landlord or the Landlord's officers, employees, and volunteers. If Landlord requires other fixed base operator tenants at Airport to increase their policy limits for the insurance described in this subparagraph, then Tenant agrees to increase its insurance accordingly.

#### 12.3.2. **Pollution and Remediation Legal Liability (Hazardous Materials).**

- a. Pollution Liability Coverage. For the purpose of this section, the term "hazardous materials" includes all materials and substances that are designated or defined as hazardous by Florida or Federal law or by the rules or regulations of Florida or any Federal Agency. If work being performed involves hazardous materials (including fuel handling or storage), the Tenant shall procure and maintain any or all of the following coverage, which will be specifically addressed upon review of exposure.
- b. For sudden and gradual occurrences and in an amount not less than \$1,000,000 per claim arising out of this Agreement, including but not limited to, clean-up costs, remediation, and third-party liability.

#### 12.3.3. **Property Coverage**

- a. Coverage must be afforded in an amount not less than 100% of the replacement value of the property with a deductible of no more than \$25,000 each claim. Coverage form shall include, but not be limited to:
  - 1). All Risk Coverage including Flood and Windstorm with no coinsurance clause.
  - 2). Any separate Flood and/or Windstorm deductibles are subject to approval by the Landlord.
- b. This policy shall insure the interests of the Landlord and Tenant in the property against all risk of physical loss and damage and name the Landlord as a loss payee.
- c. The Tenant shall, at the Tenant's own expense, take all reasonable precautions to protect the Premises from damage or destruction.
- d. All rights of subrogation shall be waived against Landlord under the property coverage policy.

**12.3.4. Builder's Risk Coverage.**

- a. For improvements under construction, coverage must be afforded in an amount not less than 100% of the total project cost, including soft costs, with a deductible of no more than \$25,000 each claim. Coverage form shall include, but not be limited to:
  - 1). All Risk Coverage including Flood and Windstorm with no coinsurance clause.
  - 2). Storage and transport of materials, equipment, supplies of any kind whatsoever to be used on or incidental to the project.
  - 3). Equipment Breakdown for cold testing of all mechanized, pressurized, or electrical equipment.
- b. This policy shall insure the interests of the owner, contractor, and subcontractors in the property against all risk of physical loss and damage and name the Landlord as a loss payee. This insurance shall remain in effect until the work is completed and the property has been accepted by the City.

**12.3.5. Commercial General Liability or Aviation Liability.**

- a. Coverage must be afforded under a Commercial General Liability policy with limits not less than:
  - 1). \$2,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
  - 2). \$2,000,000 each occurrence and \$2,000,000 aggregate for Products and Completed Operations
- b. If Landlord requires other fixed base operator tenants at Airport to increase their policy limits for the insurance described in this subparagraph, then Tenant agrees to increase its insurance limits accordingly.
- c. Policy must include coverage for Contractual Liability.
- d. The Landlord and the Landlord's officers, employees, and volunteers are to be covered as additional insureds with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Tenant. The coverage shall contain no special limitation on the scope of protection afforded to the Landlord or the Landlord's officers, employees, and volunteers.

**12.3.6. Workers' Compensation and Employer's Liability**

- a. Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the Landlord must provide Workers' Compensation insurance. Exceptions and exemptions will be

allowed by the Landlord's Risk Manager, if they are in accordance with Florida Statute.

- b. The Tenant waives, and the Tenant shall ensure that the Tenant's insurance carrier waives, all subrogation rights against the Landlord and the Landlord's officers, employees, and volunteers for all losses or damages. The Landlord requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

### 13. Deductibles

- 13.1. Tenant's deductibles or self-insured retentions shall be disclosed to Landlord and may be disapproved by the latter. They shall be reduced or eliminated at the option of Landlord upon recommendation of Landlord's Risk Management Department. The Tenant is responsible for the amount of any deductible or self-insured retention.

### 14. Insurance Requirements

- 14.1. These insurance requirements shall not relieve or limit the liability of Tenant. Landlord does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect Tenant's interests or liabilities but are merely the minimums. No insurance is provided by Landlord under this Lease to cover Tenant or its contractors or sub-contractors.

- 14.2. Duplicate Insurance. Insurance required of Tenant or any other insurance of Tenant which covers Landlord shall be considered primary, and insurance or self-insurance of Landlord shall be considered excess, as may be applicable to claims against Landlord which arise out of this Lease.

#### 14.2.1. Insurance Certificate Requirements:

- a. The Certificate Holder should read as: City of Ocala
- b. The Tenant shall provide the Landlord with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the inception of this agreement.
- c. The Tenant shall provide to the Landlord a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
- d. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Tenant to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
- e. In the event the Agreement term goes beyond the expiration date of the insurance policy, the Tenant shall provide the Landlord with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The Landlord reserves the right to suspend the Agreement until this requirement is met.
- f. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.
- g. The Landlord shall be included as a Loss Payee on all property and builder's risk policies, where applicable.

- h. The Landlord shall be named as an Additional Insured on all liability policies, with the exception of Workers' Compensation.
  - i. The Landlord shall be granted a Waiver of Subrogation on the Tenant's Workers' Compensation insurance policy.
  - j. The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.
- 14.3. Failure to Provide Insurance. In the event that Tenant shall fail to obtain or maintain in full force and effect any insurance coverage required to be obtained by Tenant under this Agreement, Landlord may procure same from such insurance carriers as Landlord may deem proper, irrespective that a lesser premium for such insurance coverage may have been obtained from another insurance carrier, and Tenant shall pay as additional rent, upon demand of Landlord, any and all premiums, costs, charges and expenses incurred or expended by Landlord in obtaining such insurance. Notwithstanding the foregoing sentence, in the event Landlord shall procure insurance coverage required of Tenant hereunder, Landlord shall in no manner be liable to Tenant for any insufficiency or failure of coverage with regard to such insurance or any loss to Tenant occasioned thereby, and additionally, the procurement of such insurance by Landlord shall not relieve Tenant of its obligations under this Agreement to maintain insurance coverage in the types and amounts herein specified, and Tenant shall nevertheless hold Landlord harmless from any loss or damage incurred or suffered by Landlord from Tenant's failure to maintain such insurance.
- 14.4. Collection of Insurance. In the event of destruction of or damage to over fifty percent (50%) of any of the Premises or the buildings or other structures covered by insurance and Tenant's election to rebuild the Premises or the buildings or other structures pursuant to the Tenant's option provided in this Lease, the funds payable pursuant to such insurance policies shall be payable to, and deposited in, a commercial national bank as trustee, located in Ocala, Florida, selected by the Landlord, as a trust fund, and the funds shall be used for the purpose of reconstruction or repair, as the case may be, of any of the buildings or other structures so damaged or destroyed. Such reconstruction and repair work shall be done in strict conformity with the ordinances and charter of the Landlord. Should the cost of reconstruction or repair exceed the amount of funds available from the proceeds of such insurance policy, then in such event, such funds shall be used as far as the same will permit in paying the cost of the reconstruction or repair. In the event that the cost of such reconstruction or repair work shall be less than the proceeds derived from such insurance policies, the surplus shall be unencumbered by Landlord.
- 14.5. Safety/Environmental.
  - 14.5.1. Tenant is responsible at all times for precautions to achieve the protection of all persons including employees, and property.
  - 14.5.2. Tenant shall make special effort to detect hazardous conditions and shall take prompt action where necessary to avoid accident, injury, or property damage. NFPA, EPA, DEP, and all other applicable safety laws and ordinances shall be followed as well as American National Standards Institute Safety Standards. All hazardous material spills, accidents, injuries or claims or potential claims shall be immediately reported promptly to Landlord's Risk Management Department.
- 14.6. Miscellaneous.

- 14.6.1. Tenant shall be responsible for carrying such insurance as Tenant may desire to protect Tenant's own equipment, contents, personal property and other property on the Premises, and business loss insurance.
- 14.6.2. The Tenant has the sole responsibility for the payment of all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the Landlord as an Additional Insured shall be at the Tenant's expense.
- 14.6.3. Tenant may not perform or fail to do any act with respect to the Premises, may not use or occupy the Premises, and may not conduct or operate the Tenant's business, in any manner that is objectionable to the insurance companies, or that causes them to void or suspend any insurance, or that causes them to increase the premiums above the amounts that would usually have been in effect for the occupancy under this Lease. Tenant may not permit or suffer another person to do so with respect to the Premises.
- 14.6.4. If the Tenant's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Tenant may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.
- 14.6.5. The Tenant's insurance coverage shall be primary insurance as applied to the Landlord and the Landlord's offices, employees, and volunteers. Any insurance or self-insurance maintained by the Landlord covering the Landlord, the Landlord's officers, employees, or volunteers shall be non-contributory.
- 14.6.6. All required insurance policies must be maintained until this Agreement is terminated. Any lapse in coverage may be considered breach of contract. In addition, Tenant must provide to the Landlord confirmation of coverage renewal via an updated certificate of insurance should any policies expire prior to the expiration of this Agreement. The Landlord reserves the right to review, at any time, coverage forms and limits of Tenant's insurance policies.
- 14.6.7. The Tenant shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement to the Tenant's insurance company or companies and the Landlord's Risk Management office, as soon as practical.
- 14.6.8. It is the Tenant's responsibility to ensure that any and all of the Tenant's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the Tenant. The Landlord reserves the right to adjust insurance limits from time to time at its discretion with notice to Tenant.

## 15. **Liens and Mortgages on Premises.**

- 15.1. Construction Liens Incurred by Tenant. The Tenant shall not subject the Landlord's interest or estate to any liability under any construction or other lien law. No provisions of this Lease may be construed as to imply that the Landlord has consented to the Tenant

incurring such a lien. If any construction lien, lis pendens, or other lien is filed against the Premises or the building for any work, labor, services, or materials that a lienor claims to have performed or furnished for the Tenant or any person holding through or under the Tenant, the Tenant must cause that lien to be canceled and discharged of record within twenty days after the Landlord gives notice to the Tenant. If such a lien is filed, the Landlord may satisfy the lien after giving notice to the Tenant as provided in this paragraph and without limiting the Landlord's rights or remedies under this Lease. The Tenant shall promptly reimburse the Landlord for any amounts expended to satisfy the lien and for any expenses incurred in connection with that satisfaction. The Tenant has no right of setoff against the Landlord. The Tenant's failure to cancel and discharge of record any lien under to this paragraph within one hundred twenty (120) days is a default by the Tenant under the provisions of this Lease.

15.2. Leasehold Mortgages Permitted.

15.2.1. Landlord acknowledges and agrees that Tenant shall have the right to finance its interest in this Lease including, without limitation, the cost of constructing the Improvements. Landlord agrees that notwithstanding any other provision of this Lease, either express or implied, to the contrary, such financing may be in the form of a mortgage, including, in connection therewith, a collateral assignment of this Lease, or other forms of financing utilized by Tenant from time to time (collectively, "Leasehold Mortgage"). Any such leasehold financing shall be subordinate to this Lease and shall not allow the holder of the Leasehold Mortgage ("Leasehold Mortgagee") to annul or damage Landlord's reversionary interest in the Improvements.

15.2.2. After the recording of any Leasehold Mortgage made by Tenant, notwithstanding anything to the contrary contained in this Lease, so long as such Leasehold Mortgage is a lien on the leasehold estate of Tenant hereunder and Landlord has actually received from such Leasehold Mortgagee or from the Tenant written notice of the Leasehold Mortgage together with the identity of and the address of the Leasehold Mortgagee, Landlord and Tenant agree as follows:

a. If Tenant or any mortgagee under a Leasehold Mortgage ("Leasehold Mortgagee") has delivered to Landlord prior written notice of the address of such Leasehold Mortgagee, Landlord shall deliver to such Leasehold Mortgagee a copy of any notice given under this Lease in the same manner and at the same time such notice is delivered by Landlord to Tenant. Landlord agrees that no notice of default, termination of this Lease or termination of Tenant's right to possession of the Premises, and no reletting of the Premises by Landlord predicated on the giving of any such notice, shall be effective unless Landlord gives the Leasehold Mortgagee written notice (or a copy of the notice given to Tenant) of the default termination or re-entry, as the case may be, and the Leasehold Mortgagee shall have the rights set forth in this subparagraph, with regard thereto.

b. In the event of a default by Tenant under this Lease, the Leasehold Mortgagee shall have the same periods to cure a default following Leasehold Mortgagee's receipt of written notice as are provided to Tenant in paragraph 18.1 of this Lease (the "Cure Period"). If Tenant defaults under any provision of this Lease, the Leasehold Mortgagee, without prejudice to its rights against

Tenant, shall have the right to cure such default within the Cure Period whether the same consists of the failure to pay rent or the failure to perform any other obligation on Tenant's part to be performed under this Lease. Landlord shall accept performance by the Leasehold Mortgagee as though the same had been performed by Tenant and, for such purpose, Landlord and Tenant hereby authorize the Leasehold Mortgagee to enter upon the Premises and to perform any of Tenant's obligations under this Lease, provided that the Leasehold Mortgagee shall indemnify and hold Landlord harmless from all claims and liabilities arising out of such action, including attorneys' fees. In the event of any default under this Lease, Landlord shall not terminate this Lease, or take any action to affect a termination of this Lease, or re-enter, take possession of or relet the Premises or similarly enforce performance of this Lease in any manner, provided that within the Cure Period the Leasehold Mortgagee cures such default.

- 15.2.3. Any Leasehold Mortgagee shall be liable for performance of the obligations of Tenant under this Lease only during the period that Leasehold Mortgagee is actually in possession of the Premises or has actual ownership of the leasehold estate created hereunder. Landlord acknowledges and agrees that any third-party purchaser at a foreclosure sale, or any third party purchaser of the leasehold interest hereunder from the Leasehold Mortgagee after the Leasehold Mortgagee's acquisition thereof, shall have the right to encumber its leasehold interest with a Leasehold Mortgage, and the mortgagee thereunder shall have all of the rights of a Leasehold Mortgagee set forth in this subparagraph. The provisions of this subparagraph are for the benefit of and shall be enforceable by any Leasehold Mortgagee.
- 15.2.4. There shall be no merger of this Lease or any interest in this Lease or of the leasehold estate hereby created with the fee estate in the Premises by reason of the fact that this Lease or any interest hereunder may be directly or indirectly held by or for the account of any person who holds, directly or indirectly, the fee estate in the Premises or any interest in the fee estate. Except in the case of a surrender on the expiration of the Term of this Lease, no surrender by Tenant of the Premises or this Lease, or any interest therein, shall be valid or effective without the prior written consent of the Leasehold Mortgagee; provided, however, that the foregoing shall not be deemed to limit Landlord's right to terminate this Lease pursuant to the provisions of paragraph 18.2 below (subject to the provisions of paragraph 18.1) or any other provision of this Lease or Landlord's rights at law or in equity. No termination or rejection of this Lease by Tenant, including, without limitation, a rejection of this Lease in any bankruptcy proceeding, shall be valid or effective without the prior written consent of the Leasehold Mortgagee, which consent shall not be unreasonably withheld, delayed, or conditioned. Landlord acknowledges and agrees that the Leasehold Mortgagee shall not be bound by any material amendment, modification, or change made to any provision of this Lease without the prior written consent of the Leasehold Mortgagee, which consent shall not be unreasonably withheld, delayed, or conditioned.
- 15.2.5. Landlord agrees that the Leasehold Mortgage (or an ancillary instrument made by Tenant in connection therewith) may include an assignment to the Leasehold Mortgagee of the rents from any sublease of the Premises, provided that Tenant

shall have the right to collect any such rents so long as no default has occurred under the Leasehold Mortgage.

- 15.3. Upon execution of this Lease, Tenant shall simultaneously execute, acknowledge and deliver without charge a memorandum of lease substantially similar to the instrument attached hereto as **Exhibit B** ("Memorandum of Lease"), containing a confirmation that the interest of Landlord shall not be subject to liens as set forth herein. The Memorandum of Lease is hereby incorporated into this Lease as if fully set forth herein.

16. **Assignments and Sublets.**

16.1. Permissible Assignments and Sublets.

16.1.1. The Tenant may not assign this Lease, nor license or grant any concession for the use of the Premises, to another person without obtaining the Landlord's prior written consent, which shall not be unreasonably withheld.

16.1.2. Tenant may, however, sublease portions of the Premises to other persons without obtaining Landlord's prior written consent, provided that such sublease is subject, in all regards, to the provisions of this Lease. In no event, however, may Tenant sublease all or any portion of the Premises to a fixed base operator to sell fuel. If the Premises are sublet:

- a. Each subtenant shall provide liability insurance consistent with the provisions of paragraph 11.4.3 of this Lease.
- b. In the event that the Tenant is in default, Landlord may collect from any subtenant, or any other person or entity occupying the Premises, the rent, charges, or fees payable by such subtenant, person or entity, and may apply the net amount collected to the rent owed by Tenant hereunder. Nothing set forth herein shall obligate Landlord to do so, however.

16.2. Continued Liability of Tenant. If the Tenant makes any assignment, sublease, license, or grant of a concession, the Tenant will nevertheless remain unconditionally liable for the performance and financial obligations of all of the terms, conditions, and covenants of this Lease.

16.3. Landlord's Right to Collect Rent From Any Occupant. If the Tenant is in default on any payments under this Lease and any other person is subletting or occupying the Premises, or if the Tenant assigns this Lease, the Landlord may collect rent from the assignee, subtenant, or occupant. The Landlord may apply the net amount collected to the rent required under this Lease. The Landlord's collection of the rent does not waive the covenant against assignment and subletting under this Lease nor does it constitute the Landlord's acceptance of the assignee, subtenant, or occupant as a Tenant, nor the Landlord's waiver of the Tenant's further performance of the covenants contained in this Lease.

17. **Airport Specific Provisions.**

17.1. Specific Airport Regulations.

- 17.1.1. Tenant acknowledges that, as part of the Airport, this Lease, and the use of the Premises, shall be governed by specific Federal, State and local rules, laws and regulations including, without limitations, the following:
- a. The Airport Rules and Regulations, a copy of which has been provided to Tenant, and any subsequent amendments thereto or revisions thereof.
  - b. The Airport Minimum Standards, a copy of which has been provided to Tenant, and any subsequent amendments thereto or revisions thereof.
- 17.1.2. Tenant shall, at all times, comply with all such laws, regulations, rules and policies.
- 17.1.3. Landlord shall have the right to deny access to the Airport to any person or entity that fails or refuses to obey and comply with such laws, regulations, rules and policies.
- 17.2. Nondiscrimination.
- 17.2.1. Tenant for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of such facilities, (2) 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 participation in, denied the benefits of, or be otherwise subjected to discrimination, (3) that Tenant shall use the 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 such Regulations may be amended.
- 17.2.2. In the event of breach of any of the above nondiscrimination covenants, shall have, in addition to all remedies available hereunder or at law or equity, the right to terminate the lease and to re-enter and as if such lease had never been made or issued. The provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed, including exercise or expiration of appeal rights.
- 17.2.3. Further, Landlord reserves the right to take whatever action it may be entitled to by law or equity to take in order to enforce this paragraph. This provision is to be considered as a covenant on the part of Tenant, a breach of which continuing after notice by Landlord to cease and desist will constitute a material breach of this Agreement and will entitle Landlord, at its option, to exercise its right of termination as provided for herein or take any action that it deems necessary to enforce compliance herewith.
- 17.2.4. Tenant shall include the foregoing provisions in every agreement or concession pursuant to which any person or persons, other than Tenant, operates any facility at the Premises providing service to the public and shall include thereon a provision

granting Landlord a right to take such action as the United States may direct to enforce such covenant.

- 17.2.5. Tenant shall indemnify and hold harmless Landlord from any claims and demands of third persons including the United States of America resulting from Tenant's noncompliance with any of the provisions of this paragraph and Tenant shall reimburse Landlord for any loss or expense incurred by reason of such noncompliance.

17.3. Governmental Requirements.

- 17.3.1. Tenant shall procure all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over Tenant's operations at the Premises which may be necessary for Tenant's operations.

- 17.3.2. Without waiving any right to protect any assessment or to claim any exception to which Tenant may be entitled by law, Tenant shall pay taxes, license, certification, permit and examination fees and excise taxes which may be assessed, levied, exacted or imposed on the Premises, leasehold interest or operations hereunder or on the gross receipts or income to Tenant therefrom and shall make all applications, reports, and returns required in connection therewith.

- 17.3.3. It shall be a condition of this Lease

a. That Landlord reserves unto itself, 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, together with the right to cause in such airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the such airspace, and for use of such airspace for landing on, taking off from or operating on the Airport.

b. That Tenant expressly agrees for itself, its successors, and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the hereinafter described real property to such a height so as to comply with Federal Aviation Regulations, Part 77.

c. That Tenant expressly agrees for itself, its successors, and assigns, to prevent any use of the Premises which would interfere with or adversely affect the operation or maintenance of the airport, or otherwise constitute an airport hazard.

- 17.3.4. Landlord does not hereby grant any exclusive rights at the Airport to Tenant or any greater rights or privileges with respect to the use of the Premises than are expressly granted hereunder.

18. **Default by Tenant.**

- 18.1. Events of Default. Upon the happening of one or more of the events set forth below (any of which is referred to hereinafter as an "Event of Default"), and subject to notice to any Leasehold Mortgagee, Landlord shall have any and all rights and remedies hereinafter set forth:

- 18.1.1. If Tenant should fail to pay rent when it becomes due and such failure continues for ten (10) days after Landlord provides Tenant with written notice of such failure.
- 18.1.2. If Tenant should fail to pay rent within ten (10) days of when it becomes due more than three (3) times during any of twelve (12) consecutive months (notwithstanding Landlord's acceptance of rent from Tenant) and without the necessity of Landlord providing Tenant with written notice or opportunity to cure.
- 18.1.3. If Tenant does not commence construction of the hangar as described paragraph 4.1.1 within six (6) months of the Effective Date and without the necessity of Landlord providing Tenant with written notice or opportunity to cure.
- 18.1.4. If Tenant violates any other material term, condition or covenant herein on the part of Tenant to be performed and such failure continues for fifteen (15) days after Landlord provides Tenant with written notice of such failure; provided, however, if the default is one which cannot be cured within such time period, Tenant will have such additional time as maybe required so long as Tenant diligently pursues the remedy. Notwithstanding the foregoing:
- a. If Tenant has previously defaulted under a material term, condition or covenant of this Lease and is provided with notice of and an opportunity to clear such breach, any subsequent breach of the same term, condition, or covenant shall constitute a breach of this Agreement without further notice or opportunity to cure; or
- 18.1.5. In the event a petition in bankruptcy under any present or future bankruptcy laws (including but not limited to reorganization proceedings) be filed by or against the Tenant and such petition is not dismissed within thirty (30) days from the filing thereof, or in the event Tenant is adjudged a bankrupt;
- 18.1.6. In the event an assignment for the benefit of creditors is made by Tenant; or
- 18.1.7. In the event of an appointment by any court of a receiver or other court officer of Tenant's property and such receivership is not dismissed within thirty (30) days from such appointment.
- 18.2. Landlord's Remedies.
- 18.2.1. If any Event of Default occurs, Landlord shall have the right, at the option of Landlord, to pursue one or more of the following remedies, in addition to all other remedies available at law or equity:
- a. Terminate this Lease and thereupon reenter and take possession of the Premises with or without legal process.
  - b. Declare all remaining rent under the Lease immediately due and owing.
  - c. Without terminating this Lease, reenter and relet the Premises, or any part thereof, with or without legal process, for the account of Tenant upon such

terms and conditions as Landlord may deem advisable or satisfactory, in which event the rents received on such reletting shall be applied:

- 1). First, to the expenses of such reletting and collection including but not limited to, necessary renovation and alterations of the Premises, reasonable attorney's fees, any real estate commissions paid;
  - 2). Second, toward payment of all sums due or to become due Landlord hereunder; and
  - 3). Third, if a sufficient sum shall not be thus realized or secured to pay such sums and other charges due Landlord, then, Tenant shall pay Landlord any deficiency monthly, and Landlord may bring an action therefor as such monthly deficiency shall arise.
  - 4). Nothing herein, however, shall be construed to require Landlord to reenter and relet in any event. Landlord shall not, in any event, be required to pay Tenant any surplus of any sums received by Landlord on a reletting of the Premises in excess of the rent provided in this Lease.
- d. Remove all or any part of the Tenant's property from the Premises and any property removed may be stored in any public warehouse or elsewhere at the cost of, and for the account of Tenant, and Landlord shall not be responsible for the care or safekeeping thereof whether in transport, storage or otherwise. Tenant hereby waives any claim against Landlord for loss, destruction and/or damage or injury that may be occasioned by any of the previously mentioned acts. In addition to any statutory lien granted to Landlord, this Lease shall be deemed and considered to grant Landlord a security interest in the previously mentioned items and Landlord shall have all the rights of a secured party under the Uniform Commercial Code.

18.2.2. No reentry or taking possession of the Premises by Landlord shall be construed as an election on Landlord's part to terminate this Lease unless a written notice of such intention is given to Tenant. Notwithstanding any such reletting without termination, Landlord may at all times thereafter elect to terminate this Lease for such previous default. Any such reentry shall be allowed by Tenant without hindrance, and Landlord shall not be liable in damages for any such reentry, or guilty of trespass or forcible entry.

18.3. Landlord May Cure Tenant's Defaults. If Tenant shall default in the performing of any covenant or condition of this Lease, Landlord may, at its sole discretion, perform the same for the account of Tenant and Tenant shall reimburse Landlord for any expense incurred therefore together with interest thereon at the highest legal rate. This provision imposes no duty on Landlord nor waives any right of Landlord otherwise provided in this Lease.

## 19. **Default by Landlord.**

19.1. Landlord's Default. Landlord will be deemed in default of this Lease if Landlord fails to perform or observe any agreement or condition of this Lease on its part to be performed or observed and if such failure continues for thirty days after Tenant provides Landlord with written notice of such failure. If the default is one that cannot be cured within thirty days,

Landlord will have such additional time as may be required so long as Landlord diligently pursues the remedy.

- 19.2. **Remedies upon Landlord's Default.** If Landlord defaults in the performance of any of the obligations or conditions required to be performed by Landlord under this Lease, Tenant may, after giving notice as provided above, either cure the default and deduct the cost thereof from rent subsequently becoming due hereunder or elect to terminate this Lease. In that event, this Lease shall terminate upon the date specified in the notice, unless Landlord has meanwhile cured the default to the satisfaction of Tenant.
20. **Destruction or Damage to Premises from Casualty.**
- 20.1. **Destruction or Fifty Percent Damage.** In the event that the Improvements are completely destroyed, or are damaged in excess of fifty percent, due to any cause whatsoever, Tenant shall:
- 20.1.1. At its own expense repair, restore, or replace the destroyed property if Tenant deems it practical or advisable to do so, and this Lease shall continue in full force and effect; or
- 20.1.2. If Tenant deems it impractical or inadvisable to repair, restore, or replace the destroyed property, this Lease shall terminate on sixty days' written notice to Landlord.
- 20.2. **Damage Less Than Fifty Percent.** In the event that damage to the Improvements due to any cause whatsoever is not in excess of fifty percent, Tenant shall at its own expense repair, restore, or replace the damaged Improvements with due diligence, and this Lease shall continue in full force and effect.
- 20.3. **Definitions.** The phrase "completely destroyed" shall be construed to mean the destruction of the safe, tenable use or occupancy of all Improvements under this Lease. The phrase "damaged in excess of fifty percent" shall be construed to mean any damage to the Improvements that will require an expenditure in excess of fifty percent of the market value (immediately prior to the damage) of the Improvements to accomplish required repairs, restoration or replacement.
21. **Quiet Enjoyment.** The Landlord covenants that so long as the Tenant pays the rent and additional rent and performs the covenants under this Lease, the Tenant is entitled to peaceful and quiet possession and enjoyment of the Premises for the Lease term, subject to the Lease provisions.
22. **Premises Subject to Agreements.** This Lease and the Premises are subject to all present agreements between Landlord, on the one hand, and the Federal Aviation Administration DOT, on the other hand, matters of record, and zoning and building laws, ordinances, regulations, and codes affecting or governing the Premises, or that may affect and govern the Premises after the execution of this Lease, and all matters that may be disclosed by inspection or survey.
23. **Estoppel Certificates.** Landlord or Tenant shall have the right to request the other party to provide an estoppel certificate, as described below, without charge, fifteen days after the requesting party sends a written notice. This estoppel certificate shall consist of a written statement certifying the following information to the requesting party or to any person specified by that party:

- 23.1. That this Lease is unmodified and in full force and effect; or, if there have been any modifications in this Lease, that this Lease is in full force and effect as modified, specifying the nature of each modification.
- 23.2. The dates through which the rent and other charges payable under this Lease have been paid.
- 23.3. Whether the other party to this Lease is in default in the performance or observance of any covenant, agreement, condition, term, or provision contained in this Lease, to the best knowledge of the certifying party, and, if so, specifying the nature of each default the certifying party has knowledge of.
- 23.4. Any other information with respect to this Lease and the Premises that the requesting party shall reasonably request.
24. **Miscellaneous Provisions.**
- 24.1. Accord and Satisfaction. If the Tenant pays or the Landlord receives any amount that is less than the amount stipulated to be paid under any Lease provision, that payment is considered to be made only on account of an earlier payment of that stipulated amount. No endorsement or statement on any check or letter may be deemed an accord and satisfaction. The Landlord may accept any check or payment without prejudice to the Landlord's right to recover the balance due or to pursue any other available remedy.
- 24.2. RADON GAS. RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY PUBLIC HEALTH UNIT.
- 24.3. Broker Representation. Each party covenants to and represents to the other that neither party has dealt with any real estate broker, salesperson or agent in this Agreement and each party hereby agrees to indemnify and hold harmless the other from and against any real estate brokers claiming by, through or under them.
- 24.4. Entity Tenant. If Tenant purports to be is a corporation or other entity, the persons executing this Lease on behalf of Tenant hereby covenant, represent and warrant that Tenant is a duly incorporated or formed, or duly qualified (if foreign) corporation or entity and is authorized to do business in the State where the Premises is located (a copy of evidence thereof to be supplied to Landlord upon request); and that the person executing this Lease on behalf of Tenant is duly authorized to execute, acknowledge, and deliver this Lease to Landlord.
- 24.5. Enforcement. All of the terms and provisions of this agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties and their respective legal representatives, heirs, estates, successors and permitted assigns.
- 24.6. Exclusive Venue. The parties agree that the exclusive venue for any litigation, suit, action, counterclaim, or proceeding, whether at law or in equity, which arises out of concerns, or

relates to this agreement, any and all transactions contemplated hereunder, the performance hereof, or the relationship created hereby, whether sounding in contract, tort, strict liability, or otherwise, shall be in Marion County, Florida.

24.7. JURY WAIVER. EACH PARTY HEREBY COVENANTS AND AGREES THAT IN ANY LITIGATION, SUIT, ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT WITH ANY COURT, AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO OF THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY THE OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.

24.8. Notices.

24.8.1. All notices, requests, consents and other communications (each a "Communication") required or permitted under this Agreement shall be in writing (including emailed communication) and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, emailed or mailed by Registered or Certified Mail (postage pre-paid), Return Receipt Requested, addressed as set forth below each party's signature line, addresses as any party may designate by Communication complying with the terms of this paragraph.

24.8.2. Each such Communication shall be deemed delivered:

- a. On the date of delivered if by personal delivery;
- b. On the date of email transmission if by email (subject to paragraph 24.8.5); and
- c. If the Communication is mailed, on the earlier of: (a) the date upon which the Return Receipt is signed; or (b) the date upon which delivery is refused.
- d. Notwithstanding the foregoing, service by personal delivery delivered, or by email sent, after 5:00 p.m. shall be deemed to have been made on the next day that is not a Saturday, Sunday, or legal holiday.

24.8.3. If a Communication is delivered by multiple means, the Communication shall be deemed delivered upon the earliest date determined in accordance with the preceding subparagraph.

- 24.8.4. If the above provisions require Communication to be delivered to more than one person (including a copy), the Communication shall be deemed delivered to all such persons on the earliest date it is delivered to any of such persons.
- 24.8.5. Concerning Communications sent by email:
- a. The Communication shall not be deemed to have been delivered if the sender receives a message from the sender's or the recipient's internet service provider or otherwise that the email was not delivered or received;
  - b. If the sender receives an automatic reply message indicating that the recipient is not present to receive the email (commonly referred to as an "out of the office message"), the email shall not be deemed delivered until the recipient returns;
  - c. Any email that the recipient replies to, or forwards to any person, shall be deemed delivered to the recipient.
  - d. The sender must print the email to establish that it was sent (though it need not do so at the time the email was sent); and
  - e. The sender shall maintain the digital copy of the email in its email system for a period of no less than one year after it was sent.
- 24.9. Governing Laws. This agreement and all transactions contemplated by this agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida without regard to principles of conflicts of laws.
- 23.0. Attorney's Fees. If any legal action or other proceeding (including, without limitation, appeals or bankruptcy proceedings) whether at law or in equity, which: arises out of, concerns, or relates to this agreement, any and all transactions contemplated hereunder, the performance hereof or the relationship created hereby; or is brought for the enforcement of this agreement or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses even if not taxable as court costs, incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.
- 23.1. Counterparts. This agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument.
- 23.2. Remedies. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.
- 23.3. Severability Clause. Provisions contained in this agreement that are contrary to, prohibited by or invalid under applicable laws or regulations shall be deemed omitted from this document and shall not invalidate the remaining provisions thereof.

23.4. Waiver.

23.4.1. A failure to assert any rights or remedies available to a party under the terms of this agreement, or a waiver of the right to remedies available to a party by a course of dealing or otherwise shall not be deemed to be a waiver of any other right or remedy under this agreement, unless such waiver of such right or remedy is contained in a writing signed by the party alleged to have waived his other rights or remedies.

23.4.2. No payment by Tenant or receipt by Landlord or its agents of a lesser amount than the rent and other charges stipulated in this Lease shall be deemed to be other than a payment on account thereof, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and Landlord or its agents may accept such check or payment without prejudice to Landlord's right to recover the balance of the amount due or to pursue any other remedy provided in this Lease or by applicable Law.

23.5. Entire Understanding. This agreement represents the entire understanding and agreement between the parties with respect to the subject matter hereof and supersedes all other negotiations (if any) made by and between the parties. The provisions of this agreement may not be amended, supplemented, waived, or changed orally but only by a writing making specific reference to this agreement signed by the party as to whom enforcement of any such amendment, supplement, waiver, or modification is sought.

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SIGNATURES START ON NEXT PAGE**

IN WITNESS WHEREOF, the parties have executed this Lease on the dates set forth below.

**LANDLORD**

City of Ocala, a Florida municipal corporation

By: \_\_\_\_\_

\_\_\_\_\_  
City Council President

Address for notices:

**City of Ocala**

Attention: Airport Director  
1770 SW 60th Avenue, Ste 600  
Ocala, Florida 34474  
Email: mgrow@oc1.fl.gov

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Witness Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Witness Name

**ATTEST:**

\_\_\_\_\_  
Angel Jacobs  
City Clerk

**APPROVED AS FORM AND LEGALITY:**

\_\_\_\_\_  
William E. Sexton  
City Attorney

SAMPLE CONTRACT

TENANT

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Witness Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Witness Name

SAMPLE CONTRACT

**EXHIBIT A  
PROPERTY**

SAMPLE CONTRACT

**EXHIBIT B  
FORM MEMORANDUM OF LEASE**

See attached.

SAMPLE CONTRACT

This Instrument Prepared by and Return To:  
Robert W. Batsel, Jr.  
Gilligan, Gooding, Batsel, Anderson & Phelan, P.A.  
1531 SE 36th Avenue  
Ocala, FL 34471

### MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE dated \_\_\_\_\_, 20\_\_, by and between:  
City of Ocala, a Florida municipal corporation (“Landlord”); and \_\_\_\_\_, a  
\_\_\_\_\_ (“Tenant”).

#### WHEREAS:

- A. Landlord and Tenant have entered into a “Ground Lease at Airport” (the “Lease”) concerning the real property described in the attached Exhibit A, together with all improvements thereon and appurtenances thereto (collectively the “Property”)
- B. Pursuant to the Lease, Tenant is permitted to construct structures, buildings, and other improvements, finance such construction, and grant a leasehold mortgage as security in connection therewith, subject to Landlord’s interest (including its reversionary interest in the improvements) and certain limitations set forth therein.
- C. Landlord and Tenant desire to publicly evidence the existence of the Lease and certain rights and obligations of Landlord and Tenant pursuant to the terms thereof.

NOW THEREFORE, in consideration of the matters set forth above (which are incorporated herein by reference) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Landlord and Tenant did on \_\_\_\_\_, 20\_\_, enter into the Lease concerning Tenant’s possession and use of the Property.
2. The term of the Lease is thirty (30) years. Tenant has the right to renew the term of the Lease for two (2) additional terms of ten (10) years each.
3. The estate of the Landlord and each and every interest of the Landlord in the Property and the Lease shall in no manner be subject to lien, claim, demand or imposition under the Construction Lien Laws of the State of Florida, or otherwise, for any improvements, labor, materials or services (collectively “Improvements”) furnished to, or rendered at or upon, the Premises by or at the request of the Tenant, whether or not Landlord shall have consented to same, it being acknowledged that any and all of such Improvements are for the sole and exclusive benefit of the Tenant. This provision is herein set forth pursuant to Section 713.10, Florida Statutes.
4. Pursuant to the Lease, Tenant has the right to finance its interest in the Lease including, without limitation, the cost of constructing the Improvements (as defined in the Lease). Such financing may be in the form of a mortgage, including, in connection therewith, a collateral assignment of the Lease, or other forms of financing utilized by Tenant from time to time (collectively, “Leasehold Mortgage”). Any such leasehold financing shall be subordinate to the Lease and shall not allow the holder of the

Leasehold Mortgage ("Leasehold Mortgagee") to eliminate or damage Landlord's reversionary interest in the Improvements.

- 5. Nothing herein contained shall be deemed to modify, limit, or in any way abridge or amend any term or condition of the Lease, reference to which, and each and every of the provisions thereof, is hereby expressly made.

**IN WITNESS WHEREOF**, the parties hereto have hereunto executed this instrument for the purpose herein expressed, the day and year above written.

**LANDLORD**

**City of Ocala, a Florida municipal corporation**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Witness Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Witness Name

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

\_\_\_\_\_  
City Council President

THE FOREGOING INSTRUMENT WAS acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Peter Lee as City Manager of the City of Ocala.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Name: \_\_\_\_\_  
(Please print or type)

Commission Number:  
Commission Expires:

Notary: Check one of the following:

- Personally known      OR       Produced Identification (if this box is checked, fill in blanks below).

Type of Identification Produced: \_\_\_\_\_  
\_\_\_\_\_

TENANT

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Witness Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Witness Name

STATE OF FLORIDA  
COUNTY OF MARION

THE FOREGOING INSTRUMENT WAS acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, a Florida limited liability company, on behalf of the \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Florida  
Name: \_\_\_\_\_  
(Please print or type)

Commission Number:  
Commission Expires:

Notary: Check one of the following:

Personally known  OK  Produced Identification (if this box is checked, fill in blanks below).

Type of Identification Produced: \_\_\_\_\_  
\_\_\_\_\_