

FIXED BASED OPERATOR LEASE AGREEMENT

THIS AGREEMENT is entered into this ___ day of _____, 2024 by and between FAIRHOPE AIRPORT AUTHORITY, a public corporation, hereinafter referred to as "Authority"; and _____ (hereinafter called "Operator").

WITNESSETH:

WHEREAS Authority operates the H. L. "Sonny" Callahan Airport (KCQF) ("Airport") in the City of Fairhope;

WHEREAS Operator desires the privilege of using the Airport and its facilities and rights, and Authority is willing to grant the same to Operator upon the terms and conditions hereinafter stated;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and conditions contained herein, the parties agree as follows:

DEFINITIONS

"Additional Improvements" means any improvements that are constructed by Operator or on Operator's behalf, which are authorized by the Authority from time to time.

"Additional Rent" means any sum (other than the Ground Rent required in Section 3.1 and Exhibit B) that Operator must pay to Authority arising from or relating to this Agreement, or Operator's use, occupancy, or operations at the Airport, including, but not limited to, fees, Fuel Flowage Fees for self-fueling activities (at the rate and on the terms imposed by Authority), fines, civil penalties, damages, claims, interest, charges, expenses, and all other amounts, liabilities, obligations, charges, costs and impositions which Operator assumes under this Agreement. Additional Rent shall be subject to the terms stated in Exhibit B.

"Administrative Fee" means, for any action undertaken by the Authority under this Agreement, an administrative fee of fifteen percent (15%) of the actual costs incurred by Authority for performing such action, or the costs due and payable by Operator.

"Agreement" means, collectively, this Fixed Base Operator Lease Agreement that creates rights and obligations of the parties to such Agreement.

"Airport" means the H. L. "Sonny" Callahan Airport (KCQF), together with any appurtenant properties and/or facilities associated therewith, as may be enlarged, diminished, or otherwise modified from time to time.

"Apron Leased Area" means those portions of the air operations area of the Airport adjacent to the Improvements, to be reserved for Operator's exclusive use for the temporary loading and unloading of aircraft, limited to those areas depicted on the Site Plan.

"Authority" means the Fairhope Airport Authority, and any successor thereto.

"Avigation Easement" means an assignable easement and right-of-way for the free and unobstructed passage of aircraft in, through, and across the air space above and near the Premises.

"Bankruptcy Code" means Title 11 of the United States Code relating to Bankruptcy, as amended.

"Chairman" means the current Chairman of the Board of Directors of the Authority, or any successor or successors to the duties of such official, or her or his duly authorized designee.

“City” means the City of Fairhope, Baldwin County, Alabama.

“Commencement Date” means _____.

“Common Areas” means those portions of the Airport, including, without limitation, the taxiways, runways, take-off areas and landing areas of the Airport, used in common and non-exclusively by the Operator and the other occupants of the Apron, the Authority and the public for vehicular and pedestrian ingress and egress to and from the Premises.

“CPI” means the national Consumer Price Index (All Urban Consumers), as published by the U.S. Department of Labor, Bureau of Labor Statistics, or the generally accepted national replacement or successor index, as readjusted to the base month, and computed by comparison to the most recent twelve- month period readily available.

“Day” or “day” means any calendar day, unless a business day (which excludes Saturday, Sunday or legal holiday) is specified.

“Default Rate” means an interest rate equal to the greater of (i) the rate of eight percent (8%) per annum and (ii) the maximum rate permitted by Law.

“Effective Date” means the later of the date of execution of this Agreement by Operator and the Authority.

“Environmental Laws” means and includes all Federal, State, and local statutes, ordinances, regulations, and rules relating to environmental quality, health, safety, contamination and clean-up, as they currently exist or may exist in the future, including, without limitation, (i) The National Environmental Policy Act (42 U.S.C. § 4321 et seq.); (ii) The Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 et seq.); (iii) The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.); (iv) The Emergency Planning and Community Right to Know Act of 1986 (42 U.S.C. § 11001 et seq.); (v) The Clean Air Act (42 U.S.C. § 7401 et seq.); (vi) The Federal Water Pollution Control Act, as amended by the Clean Water Act (33 U.S.C. § 1251 et seq.); (vii) The Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.); (viii) The Toxic Substances Control Act (15 U.S.C. § 2601 et seq.); (ix) The Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.); (x) The Oil Pollution Act (33 U.S.C. § 2701 et seq.); (xi) The Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 136 et seq.); (xii) The Federal Safe Drinking Water Act (42 U.S.C. § 300 et seq.); (xiii) The Federal Radon and Indoor Air Quality Research Act (42 U.S.C. § 7401 et seq.); (xiv) The Occupational Safety and Health Act (29 U.S.C. § 651 et seq.); (xv) The Endangered Species Act (16 U.S.C. § 1531 et seq.); (xvi) The Fish and Wildlife Coordination Act (16 U.S.C. § 661 et seq.); (xvii) The National Historic Preservation Act (16 U.S.C. § 470 et seq.); (xviii) The Coastal Zone Management Act (33 U.S.C. § 1451 et seq.); (xix) The Alabama Water Pollution Control Act (Ala. Code § 22-22-1 et seq.); (xx) The Alabama Solid Wastes and Recyclable Materials Management Act (Ala. Code § 22-27-1 et seq.); (xxi) The Alabama Air Pollution Control Act (Ala. Code § 22-28-1 et seq.); (xxii) The Alabama Hazardous Wastes Management and Minimization Act (Ala. Code § 22-30-1 et seq.); (xiii) all State environmental protection, super lien, and environmental clean-up statutes, with implementing regulations and guidelines, (xiv) all local laws, regulations, and ordinances insofar as they are equivalent or similar to the federal laws recited above or purport to regulate Hazardous Materials; (xv) and judicial interpretations of each of the foregoing.

“Existing Improvements” means those Improvements currently in existence on the Premises as of the Effective Date.

“FAA” means the Federal Aviation Administration.

“Fixed Base Operator” or **“FBO”** means a person, firm, corporation, or other legal entity that, subject to the terms and conditions of a lease agreement, that is providing or offering the general aviation services,

uses or products to the public as specifically set forth in the Airport's Minimum Standards.

"Fiscal Year" means each twelve-month period during the Term beginning on October 1 and ending on the following September 30.

"FOD" means foreign objects and debris.

"Force Majeure" means any extraordinary act of terrorism, nature, explosion, pandemic orders by governmental authorities that directly limit or prohibit performance, war, civil disorder, change in laws, or unexpected and unavoidable labor strike or material shortage that could not have been reasonably anticipated or avoided by the impacted party.

"Fuel Flowage Fee" means the fuel flowage fee imposed by the Authority at such a rate as is now or may hereinafter be established by the Authority in its sole discretion.

"Ground Rent" means the payment made by Operator to the Authority for the use of the Premises, beginning as of the Commencement Date, consisting of the Improved and Unimproved Area, as set forth in Section 3.1 and Exhibit B of this Agreement.

"Gross Revenues" means all revenues and fees paid and payable without offsets or deductions to Operator because of its operations at the Airport pursuant to this Agreement, expressly excluding fuel sales.

"Hazardous Materials" means and includes any element, chemical, compound, material, or substance, whether solid, liquid, or gaseous, which at any time is defined, listed, classified, or otherwise regulated in any way under any Environmental Law, or any other such substances or conditions (including mold and other mycotoxins or fungi) which may create any unsafe or hazardous condition, or pose any threat to human health and safety. "Hazardous Materials" includes the following: (a) hazardous wastes, hazardous material, Hazardous Materials, hazardous constituents, and toxic substances or related materials, whether solid, liquid, or gas, including substances defined as or included in the definition of "Hazardous Material", "hazardous waste", "hazardous material", "extremely hazardous waste", "acutely hazardous waste", "radioactive waste", "radioactive materials", "bio-hazardous waste", "pollutant", "toxic pollutant", "contaminant", "restricted hazardous waste", "infectious waste", "toxic substance", "toxic waste", "toxic material", or any other term or expression intended to define, list or classify substances by reason of properties harmful to health, safety, or the indoor or outdoor environment (including harmful properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, "TCLP toxicity" or "EP toxicity", or words of similar import under any applicable Environmental Laws); (b) any petroleum, including crude oil and any fraction thereof, and including any refined petroleum product or any additive thereto or fraction thereof or other petroleum derived substance; and any waste oil or waste petroleum byproduct or fraction thereof or additive thereto; (c) any drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal resources; (d) any flammable substances or explosives; (e) any radioactive materials; (f) any asbestos or asbestos-containing materials; (g) any lead and lead-based paint; (h) any radon or radon gas; (i) any methane gas or similar gaseous materials; (j) any urea formaldehyde foam insulation; (k) electrical equipment which contains any oil or dielectric fluid containing regulated levels of polychlorinated biphenyls; (l) pesticides; (m) polyfluoroalkyl compounds, including perfluoro octane sulfonate and perfluoro octanic acid; (n) any other chemical, material, or substance, exposure to which is prohibited, limited, or regulated by any governmental entity and (o) soil, or surface water, or ground water contaminated with Hazardous Materials as defined above.

"Improved Area" means that area of the Premises other than the Unimproved Area.

"Improvements" means, collectively, the Existing Improvements, and any Additional Improvements constructed by Operator or on Operator's behalf during the Term.

"Indemnified Party" or **"Indemnified Parties"** means the Authority and its respective successors, and

assigns, and each of its officers, board of directors, officials, employees, agents, contractors, subcontractors, and volunteers.

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“Land” means the real property on which the Premises (including all Improvements and the Apron Leased Area) is located. Such Land is more particularly described in Exhibit A attached hereto.

“Laws” means all present and future laws, ordinances, orders, directives, rules, and regulations of the United States of America (including FAA Grant Assurances executed by the Authority as consideration for receiving Federal grants), the State of Alabama, Baldwin County, the City of Fairhope, the Authority, and their respective agencies and departments. In addition, and not by way of limitation, Laws shall include all building, fire and similar codes, regulations promulgated by the Occupational Safety and Health Administration, requirements under the Americans with Disabilities Act, Environmental Laws, the Rules and Regulations, and related policies and procedures established by the Authority which may affect the Operator or its operations at the Premises or at the Airport as same may be amended in the future.

“Letter of Credit” means an executed final irrevocable letter of credit in a form reasonably acceptable to the Authority issued by a company approved by the Authority in an amount equal to the three (3) month aggregate of Operator’s Rent owed under this Agreement.

“Memorandum” means a memorandum of this Agreement in recordable form, reasonably approved by the Authority and Operator.

“Minimum Standards” means the Minimum Standards adopted by the Authority on or about February 27, 2024, as amended from time to time, and contains standards that Operator must meet to obtain and retain its right to operate the Permitted Use at the Airport, which are subject to amendment by the Authority in its sole discretion.

“Monthly Aircraft and Fueling Transaction Report” means a single monthly report certifying, for the prior month (i) the quantity, in gallons, of fuel supplied to Storage Tanks on the Premises, (ii) the name of fuel suppliers supplying such fuels to Storage Tanks on the Premises, (iii) the quantity, in gallons, of fuel dispensed from Storage Tanks on the Premises, and (iv) all fees collected by Operator on behalf of the Authority.

“Mortgage” means Operator’s mortgage (including any renewal, modification, replacement, extension or refinancing thereof) of its leasehold estate under this Agreement in the amount of indebtedness evidenced therein.

“Notice” or **“Notify”** means a written in writing and transmitted by commercial courier, Express Mail, electronic mail (with transmission confirmation) or certified mail (return receipt requested) with postage prepaid to the Authority at: Fairhope Airport Authority; Post Office Box 429; Fairhope, Alabama 36533; Attention: Board Chairman; email: fairportauthority@gmail.com, with a copy to: Joshua P. Myrick; Stankoski Myrick, LLC; Post Office Box 529; Fairhope, Alabama 36533; email: josh@stankoskimyrick.com; and to Operator at _____. Notice will be deemed given on the date of the delivery to the addresses above. A Notice given in compliance with this Agreement is deemed received two days after it is delivered to a commercial air courier or express delivery service, or by registered or certified mail or one day if sent by electronic mail. Any time stated in a Notice shall commence on the date the Notice is deemed received. Actual receipt of a Notice is not required. If a party changes the person or address for Notice, then the party shall give Notice of the change to the other party in compliance with this Agreement. A party may not raise failure of or defect in notice as a defense if the party failed to give the other party proper Notice that it had changed the person or address for Notice. All Notices must be in writing.

“Permitted Use” means the exclusive use and occupancy of the Premises by Operator for use as an FBO, subject to the further terms and conditions of Section 6 of this Agreement.

“Plans” means plans and specifications for any Additional Improvements, as applicable, as provided in advance to, and approved by, the Authority and the FAA.

“Premises” means the portion of the Airport property in the City, comprised of (i) the Land, (ii) the

Existing Improvements thereon (together with any Additional Improvements to be constructed thereon) and (iii) the Apron Leased Area, all as described and defined in Exhibit A attached hereto and made a part hereof

“Pro Rata Share” means the percentage amount attributable to Operator to be used for allocations of Taxes, as set forth in this Agreement. Pro Rata Share for Operator will be determined from time to time on the ratio of the total of Operator’s individual Total Rentable Square Footage at the Premises to the Total Rentable Square Footage of all FBO space at the Airport.

“Release” means any actual or threatened release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, abandonment, disposing or allowing to escape or migrate into or through the environment (including ambient air (indoor or outdoor), surface water, groundwater, land surface or subsurface strata or within any building, structure, facility, or fixture).

“Remedial Work” means with a respect to a Release of Hazardous Materials at, in, on, under, about, from or affecting the Premises, any remedial, removal, response, construction, closure, disposal or other corrective actions, including any monitoring, reporting or permitting, or any pollution control equipment installation or operation, required under Environmental Laws or by any governmental authority to correct, eliminate, or remove such Release of Hazardous Materials, and includes the use of risk-based cleanup standards and institutional controls to the extent reasonably available under applicable Environmental Law.

“Rent” means the aggregate of all monetary obligations (including, without limitation, Ground Rent and Additional Rent) in consideration for Operator’s use and occupancy of Premises, payable by Operator as set forth in this Agreement.

“Rules & Regulations” means the Rules and Regulations of the Authority adopted on or about February 27, 2024, and amended by the Authority from time to time.

“Security Deposit” means the performance guarantee of Operator in the amount and form set forth in Section 3.11.

“Site Plan” means the site plan attached hereto as Exhibit A.

“State” means the state of Alabama.

“Storage Tank(s)” means the fuel storage tanks that are currently (or, subject to the Authority’s prior written approval, may in the future be) installed in the Premises.

“Surcharge” means the monthly fee, payable monthly, that is owed by Operator to the Authority and is the product of two percent (2%) multiplied by the Gross Revenues reported by Operator for the previous month (but excluding revenues fuel sales, which are subject to a separate flowage fee).

“Operator” means _____.

“Operator Parties” means Operator and its employees, officers, directors, contractors, subcontractors, suppliers, agents, invitees, and other representatives

“Term” means a term of _____ years, beginning on the Commencement Date and expiring on the last day of the calendar month in which the _____ anniversary of the Commencement Date occurs.

“Total Rentable Square Footage” means the aggregate square footage attributable to (a) the Land, (b) the Existing Improvements and (c) the Apron Leased Area.

“**TSA**” means Transportation Security Administration.

“**Unimproved Area**” means either (i) any area that is identified as unimproved within the Premises, or (ii) any area, identified by mutual agreement, where Operator constructs a new facility, including but not limited to, passenger terminal, hangar, other buildings, or paved area.

“**Utilities**” means the commonly operated delivery systems, including, but not limited to water, electricity, natural gas and sewer, and internet service. Utilities do not include Operator proprietary systems, including but not limited to, communication and telecommunication systems, wash racks, wastewater pretreatment systems, and Fuel Facilities.

1. LEASED PREMISES

1.1 Premises. Authority hereby leases to Operator, and Operator hereby accepts from Authority as tenant, the Premises described in the Site Plan.

1.2 Conditions of Premises. Operator has inspected the Premises and accepts them in their present “as is, with all faults” condition. Authority makes no warranty as to the condition of the Premises or their suitability for any particular purpose.

1.2 Grant of Concession and Purpose of Agreement. Operator is granted permission to operate a concession as a Fixed Base Operator as defined in the Minimum Standards, and Operator agrees that it shall have the right, privilege, and obligation to use the Premises as a Fixed Base Operator (and for no other purposes).

1.3 Access. Authority agrees that if Operator is not in breach of this Agreement, Operator and its Affiliates may ingress and egress across the Common Areas of the Airport (as permitted by applicable Laws and Rules and Regulations) on a non-exclusive basis and only to the extent reasonably necessary for Operator’s use, occupancy, and operations at the Premises.

1.4 Enjoyment of Rights. Subject to Operator's complete performance of the payment and other obligations contained in this Agreement, Operator shall peaceably have and enjoy the rights, uses, and privileges stated in this Agreement.

2. TERM

2.1 Term of this Lease. The Term of this Agreement shall commence as of the Commencement Date and shall continue for ____ () years, unless sooner terminated in accordance with the provisions of this Agreement.

2.2 Holding Over. Holding over by Operator after the expiration of the Term, whether with or without the consent of Authority, shall not extend or renew this Agreement. Holding over shall be construed as a month-to-month tenancy, and Authority or Operator may terminate this tenancy at any time by giving thirty (30) days’ written Notice of termination to the other. Operator shall be bound by all terms and conditions of this Agreement; provided, however, that all Rent shall adjust in accordance with established methodology for such year of the Term. In addition, in the case of any holdover by Operator without consent of the Authority, Operator shall be obligated to pay one hundred fifty percent (150%) of the Ground Rent in effect at the expiration of this Agreement, together with reimbursement for all actual damages incurred by the Authority because of Operator’s holding over; provided, however, that the foregoing rate shall not be applicable for the first thirty (30) days following the expiration of this Agreement **if**, at the time of expiration, Operator and the Authority are actively negotiating an extension. The Authority may exercise all remedies at law or in equity to recover possession of the Premises,

together with Operator's obligation to reimburse the Authority for actual damages incurred by the Authority.

2.3 Surrender. Except where there is a holdover in accordance with Section 2.2 above, the Operator agrees that upon the expiration or early termination of the Term of this Agreement, it will peaceably surrender possession of the Premises, in accordance with the terms and conditions of this Agreement (including, without limitation, Section 18 hereof). The Authority shall not be required to give Notice to Operator to quit possession.

3. RENT

3.1 Rent. For Operator's lease of the Premises, Operator covenants to pay to Authority, without set-off or deduction, the annual Ground Rent (comprised of Ground Rent for the Improved Area and Ground Rent for the Unimproved Area, as provided in Exhibit B), commencing on the Commencement Date. The rent for any fraction of a year shall be prorated. All rent shall be payable monthly in advance without Notice or demand by the first business day of each month and shall be subject to the terms stated in Exhibit B. Notwithstanding the above, Operator can expect to receive Notice of adjustments to annual Ground Rent based on the CPI, which Notice will be delivered before September 1st of each year during the Term.

3.2 Fuel Flowage Fee; Landing Fee. In addition to the Rent, as Additional Rent, Operator shall pay to the Authority, on or before the twentieth (20th) day of each month, the Fuel Flowage Fee. Such Fuel Flowage Fee shall be calculated by multiplying the Authority's current Fuel Flowage Fee rate per gallon by the number of gallons of fuel delivered to the Operator's Storage Tanks located on Airport property, as confirmed by the Monthly Aircraft and Fueling Transaction Report. The Fuel Flowage Fee shall be paid by Operator as Additional Rent hereunder. Pursuant to the Minimum Standards, Operator may act as the collection agent, when requested by the Authority, with respect to any landing fees or other user fees which are applicable to aircraft arriving at the Airport and Premises and using FBO services.

3.3 Surcharge. The Authority imposes a surcharge of 2% on all "Gross Revenue" of operators at the Airport. Operator shall refer to the Minimum Standards and resolution(s) of the Authority for the terms and conditions of the 2% surcharge, and shall comply with all terms and conditions of the Minimum Standards and Authority resolutions.

3.4 Time of Payments. Payments of Base Rent and Additional Rent shall be due in advance without demand on or before the first day of each calendar month. Additional commission fees, if due, shall be paid on or before the 20th day of each calendar month.

3.5 Utilities. Operator shall be solely responsible for direct payment of all Utilities, including, without limitation, trash removal, heat, cooling, damaged security gates or equipment, and telephone, cable, internet, and other related services to the Premises. Utilities will also include any grounds maintenance, aircraft and vehicular parking areas associated with the use of Premises. Operator shall bear the cost of extending any Utilities to the Premises or modifying such services to address the specific requirements of Operator.

3.6 No Other Fees and Charges. The Authority agrees that no other rents, fees, charges, taxes, or assessments, other than as expressly enumerated in this Agreement, shall be imposed by the Authority upon Operator for rights relating to the conduct of Operator's operations at the Airport; provided, however, that the foregoing shall not be construed to prohibit the Authority from imposing and collecting, as Additional Rent, charges and fees (i) to recover the costs for Operator's use of Airport labor or other equipment or facilities, to the extent not otherwise recovered hereunder; (ii) for Operator's use of any areas on the Airport not included within Operator's Premises; (iii) for employee vehicle parking; (iv) for recovering the security costs associated with badging employees and contractors of Operator, if required; (iv) recovering costs advanced by the Authority and due to be reimbursed by Operator, including without

limitation, penalties imposed on Authority by virtue of breach of this Agreement, violations of Laws (including Environmental Laws) or the Rules and Regulations by Operator or any party acting on behalf of Operator, or curing defaults by Operator; and (v) for any other goods or services for which Operator agrees to pay pursuant to written agreement.

3.7 Past-Due Rent. If Operator fails to pay any Rent within five (5) days of the date when due and payable, such unpaid amount shall bear interest, from the due date thereof to the date of full payment by Operator, at the Default Rate, and such interest shall be collectible as Additional Rent.

3.8 Triple Net Rent. Except as otherwise expressly provided herein, all Rent payable hereunder shall be paid without deduction or offset. It is the intent of the parties, except as is otherwise provided in this Agreement, that Rent payable to the Authority shall be net to the Authority and that the Authority shall receive the Rent free and clear of any imposition or charge of any nature whatsoever relating to the construction, use, or operation of the Premises, which Operator shall timely pay and/or discharge without any right of offset, deduction, or abatement. If the Authority is subjected to ad valorem real estate Taxes, then Operator shall pay Operator's Pro Rata Share of the ad valorem real Taxes owed during the Term.

3.9 Reports. Within the first fifteen (15) days of each month during the Term, Operator shall provide to the Authority a true and correct Monthly Aircraft and Fueling Transaction Report. If Operator is delinquent for ten (10) days or more in furnishing to the Authority the Monthly Aircraft and Fueling Transaction Report or such report is inaccurate or incomplete, Operator shall be subject to pay the Authority a one hundred dollar (\$100) late fee as liquidated damages for the additional administrative costs incurred by the Authority in processing, reviewing, and demanding the delinquent or inaccurate report. The Authority and Operator have agreed that this is a fair and reasonable estimate of the Authority's costs incurred in processing a delinquent or inaccurate report. Imposition of a delinquency charge shall not constitute a waiver of any other remedies available to the Authority due to Operator's failure to timely pay the late fee. Along with the Monthly Aircraft and Fueling Transaction Report, Operator shall also report the monthly Gross Revenues report to which the Surcharge applies.

3.10. Audit. Operator shall keep full and accurate books and records showing all Gross Revenues. Books and records shall be kept in accordance with generally accepted accounting principles, and shall be maintained in a location within Fairhope, Alabama for at least three (3) years after the end of the fiscal year to which they pertain, provided that records may be kept elsewhere, but shall be produced at Fairhope, Alabama, within five (5) business days, for the Authority's inspection, audit or copying, upon request by the Authority, at any time during this Agreement and for a period of three (3) years after the expiration or earlier termination of this Agreement or, at Operator's option or in the event Operator fails to produce such records as required, Operator may make such records available to the Authority at a location other than Fairhope, Alabama so long as Operator pays the Authority auditor's expenses, including travel, lodging and meals, incurred to travel to the place where the records are being kept for any inspection, audit or copying. Such books and records made available to the Authority shall include the general ledger, original rental contracts, profit/loss statement specific to the Airport (expense portion may be redacted), daily and monthly business reports and any other books or records the Authority deems appropriate. The Authority may audit Operator's books and records at any time prior to five (5) years following the termination or expiration, as applicable, of this Agreement to verify compliance with this Agreement. The Authority may use its own staff to perform audits under this Section 3.10, or may engage an independent certified public accountant to perform the audit. If an audit reveals that Operator has understated the Gross Revenues by three percent (3%) or more, the entire expense of the audit shall be borne by Operator. Operator shall pay any additional amounts that the audit determines are due to the Authority within thirty (30) days of the Authority's invoice, with interest at the Authority's then prevailing delinquency charge. Interest shall accrue from the date any Percentage Rent was due under this Agreement. Charges referenced in this Section 3.10 are exclusive of all fees and penalties referenced elsewhere in this Agreement. In the event the Authority requests inspection of records for the purposes of an audit as set forth in this Article 3, and Operator does not produce such records, which within the Authority's opinion meet the Authority's request, within thirty (30) business days or as otherwise agreed upon between the parties. In the event it is discovered through the audit that Operator has been not

reporting a certain charge as Gross Revenues when it should have been, Operator shall pay the Authority the applicable Percentage Rent that was due on the Gross Revenues and the fine associated with the delinquent remittance of the Percentage Rent.

3.11 Security Deposit. Upon execution of this Agreement, Operator, at its own cost and expense, shall furnish and maintain on file with the Authority during the Term the Letter of Credit. The Letter of Credit shall (a) guarantee the payment of all Rent under this Agreement; (b) remain in effect throughout the term of this Agreement including any holdover period, if any; and (c) be in a form satisfactory to the Authority. The Letter of Credit shall set forth the amount of the guarantee; the effective, termination and extension dates of such guarantee; and thirty (30) days' Notice of cancellation. Said Letter of Credit shall provide that, in the event of Operator's failure to pay all Rent or to perform its obligations under this Agreement, the Authority may immediately pursue all legal remedies pursuant to said Letter of Credit. This remedy shall be cumulative and may be exercised by the Authority in addition to any other rights or remedies allowed by law or set forth in this Agreement. Failure to pursue such legal remedies pursuant to said Letter of Credit or any delay in the Authority's pursuit of said remedies shall not be deemed a waiver of such rights. Should a default occur under this Agreement, the Authority may draw upon any Letter of Credit upon thirty (30) days' Notice of default to Operator. Within ten (10) days after Notice of application of the Letter of Credit, Operator will restore the Letter of Credit to its original amount. The Authority will not be required to pay Operator any interest on the Letter of Credit. The Chairman or its designee, upon thirty (30) days' Notice to Operator, may require an increase in the amount of the Letter of Credit equal to no more than three (3) additional months of Rent and other payments if, upon a review of Operator's payment or performance history at the Airport, the Authority determines an increase is required. The release of the Letter of Credit will be subject to the satisfactory performance by Operator of all terms, conditions, and covenants contained herein throughout the entire Term. Upon termination of this Agreement, the release of Letter of Credit will not occur until all Rent and other obligations due to Authority are satisfied. In the event of a dispute as to the condition of Premises, only the amount in dispute will be retained for remedy. The Authority will release the Letter of Credit without interest within thirty (30) days of satisfaction of all the above requirements.

4. AUTHORITY'S RIGHTS

4.1 Authority's Right to Work Within, Alter, or Recover Premises. Authority has the right at the Airport (including the Premises) to perform or cause to be performed any work (including, but not limited to, constructing improvements, surveying, performing environmental testing, removing any hazard or obstruction, and implementing any plan, program, or action), that Authority (in its sole and absolute discretion) determines to be in Authority's or the Airport's best interests. Authority may elect to pursue any such work without recovering the Premises from Operator, and the Authority shall exercise reasonable care to minimize disruptions to the Premises. Authority also has the right to recover all or any portion of the Premises from Operator in connection with any such work (with or without relocating Operator) as Authority may determine in its sole and absolute discretion, and the following shall apply:

4.1.1 Recovery. If Authority determines to recover all or any portion of the Premises, Authority shall provide Operator with one hundred twenty (120) days' prior Notice specifying what areas will be recovered. If any portion remaining after such recovery is tenantable considering the purposes of this Agreement (as determined by Authority in its sole and absolute discretion), Authority shall reduce Operator's Rent hereunder by the percentage of the Premises that Authority recovers, and Authority shall pay the cost of any Additional Improvements that are required by Authority in connection therewith (so long as such improvements are not in breach of this Agreement). If Authority recovers all the Premises, or if any remaining portion of the Premises is not tenantable pursuant to Authority's determination, Authority may terminate this Agreement by including in the Notice provided for in this Section a Notice of termination, and this Agreement shall terminate at the end of such 120-day period. In connection with any such termination where Operator is not in default, Authority shall pay to Operator the fair market value of any Additional Improvements and Operator's leasehold interest as determined by a professional real estate appraisal obtained and paid for Authority. The appraiser's determination of fair market value shall take into consideration the remaining Term of this Agreement, together with the depreciation of any

Additional Improvements.

4.1.2 Relocation. If Authority elects to relocate Operator, Authority shall pay the reasonable costs that Operator incurs to relocate to a new location (chosen by Authority), including any Additional Improvements (so long as such improvements are not in breach of this Agreement) and any movable property associated with Operator's Permitted Use under this Agreement. Operator's Rent at such new location shall be determined based on the actual square footage contained in Operator's Premises at such new location.

4.1.3 No Waiver. Nothing under this Section 4.1 shall be construed to waive Authority's right to pursue any remedy for a breach of this Agreement arising from or relating to Operator's use, occupancy, or operations at any portion of the Premises or at the Airport.

4.2 Authority's Right to Implement Airport Programs. Authority has the right to implement any lawful, reasonable, and nondiscriminatory program at the Airport as Authority may determine in its sole and absolute discretion, and to require Operator to participate in or comply with any such program. Such programs may include, but are not limited to, providing common arrangements for trash disposal, Utilities, or other Airport functions; providing revenue-generating activities at the Airport by the Authority or its designee (including, but not limited to, vending machines, advertising, wireless communications, and Utility services whether on or off of the Premises); designating approved operators and service providers at the Airport; establishing central locations and security procedures for delivering goods or materials to the Airport; and establishing green building and other programs to benefit the environment and conserve energy.

4.3 Authority Charges. Authority has the right to impose rates and charges in connection with any matter at the Airport in a manner consistent with the Airport's Minimum Standards and Rules & Regulations.

4.4 Right of Inspection. Authority shall have the right to enter the Premises at all reasonable times to inspect the Premises and Operator's operation of the same, and to install or maintain Utilities; provided the Authority shall compensate Operator for any damage to Operator's property caused by Authority's exercise of the rights granted under this Section.

4.5 Authority Directives. Authority is the proprietor of the Airport, and Authority has the right to issue any lawful, reasonable, and non-discriminatory directive as a landlord and proprietor that Authority determines to be in Authority's best interests.

4.6 Governmental Acts. Authority is a public corporation under the Laws of the State, and Authority has all rights, powers, and privileges afforded to it under Laws and Rules and Regulations. Operator agrees that Operator is subject to any lawful governmental act of Authority without regard to the provisions of this Agreement.

5. RIGHTS AND OBLIGATIONS OF OPERATOR

5.1 Obligations not Exclusive. The obligations of Operator and Authority listed in this Section 5 are provided for convenience of reference, and do not in any way exclude, limit, or diminish responsibilities cited elsewhere in this Agreement. Operator and Authority further covenant and agree to always observe, obey, and comply fully at their own expense with all Laws, Rules and Regulations and deed restrictions and covenants now in effect and hereafter issued by any state, federal or other governmental entity having jurisdiction over the Premises or activities thereon.

5.2 Fair Services; Nondiscrimination. Operator shall furnish its services on a fair, equal, and non-discriminatory basis to all users. Operator for itself, its personal representatives successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (i) no person shall be excluded from participation in, denied the

benefits of, or be otherwise subjected to, discrimination on the ground of race, color, or national origin, in the use of the Premises; (ii) that in the construction of Alterations on, over, or under the Premises and the furnishing of services thereof, no person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination on the grounds of race, color, or national origin; and (iii) that Operator shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations (the "CFR"), 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 said regulations may be amended. Without limiting the foregoing, Operator agrees to comply with the Nondiscrimination Provisions attached hereto as **Exhibit C**.

5.3 Fair Prices. Operator shall charge fair, reasonable, and not unjustly discriminatory prices for each unit of service; provided that Operator may make reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions to volume purchasers. Whether Operator is pricing each unit of service in a fair, reasonable, and not unjustly discriminatory manner shall be determined by measuring Operator's pricing against the pricing of other fixed based operators at like-size commercial service airports in the southeastern United States.

5.4 Understanding of Ordinances and Agreements. Operator specifically acknowledges that it has read, and fully understands, all applicable requirements in the Minimum Standards and the Rules & Regulations. Operator's specific obligation with respect to these documents shall not be construed to diminish Operator's responsibility to comply with all applicable Laws as stated in subsection 5.1 above.

5.5 Security Regulations. Operator will comply with all security regulations established or amended, by but not limited to the Authority, Department of Homeland Security, Customs and Border Protection, TSA, and the FAA. This shall include, without limitation, the Authority's Airport Security Plan, as the same is amended from time to time. Operator acknowledges receipt of a copy of the most current Airport Security Plan.

5.6 Required Services and Facilities. In doing business at the Airport as an FBO pursuant to this Agreement, Operator covenants and agrees, always during the Term hereof, to provide the minimum services and maintain the facilities specified in the Airport's Minimum Standards and Rules & Regulations, as the same may be amended from time to time.

5.7 Required Financial Records. Operator shall be required to maintain all financial records set forth in Exhibit D attached hereto and to keep such records available for inspection by Authority for a period of five (5) years from the date of preparation. Authority shall have the right to audit Operator's financial records described in **Exhibit D** when appropriate, to recoup all losses, and to recover penalties as set forth in Exhibit D. The Authority may audit Operator's books and records at any time prior to five (5) years following the termination or expiration, as applicable, of this Agreement to verify compliance with this Agreement. The Authority may use its own staff to perform audits under this Section 5.7 or may engage an independent certified public accountant to perform the audit. Operator shall pay any additional amounts that the audit determines are due to the Authority within thirty (30) days of the Authority's invoice, with interest at the Default Rate.

5.8 Avigation Easement. The Authority hereby reserves to itself and its successors and assigns the Avigation Easement. The Authority reserves the continuing right to clear and keep clear the Premises of all obstructions infringing upon or extending into the air space above an imaginary line two hundred (200) feet above the surface of the ground, and the extension and distance of which are prescribed in 14 C.F.R. Part 77 (Safe, Efficient Use, and Preservation of the Navigable Airspace).

5.8.1 In order to protect and enforce its Avigation Easement rights, the Authority may cut and remove all underbrush and other plants and may demolish and remove all buildings, structures, and other obstructions on the Premises that infringe upon or extend into the air space above the imaginary line. The Authority may cut, remove, and keep clear all trees and other plants that extend above a point ten (10) feet below the imaginary line. The Authority may enter, exit, and occupy the

Premises for the purpose of enforcing its rights under this Article.

5.8.2 In the air space above and near the Premises, the Authority may cause or allow to be caused such noise, smoke, fumes, droppings, and vibrations that are inherent in the operation of aircraft now known or hereafter used for navigation or flight in the air. This Avigation Easement and right-of-way includes the Authority's right to use the air space for landing at, taking off from, and operating on the Airport.

5.8.3 Operator's use of the Premises shall not interfere with or abridge the Authority's Avigation Easement and right-of-way rights.

5.9 Construction Activities. It is understood by the Operator that dirt and dust may be created from time to time by maintenance or construction at the Airport. Due to the proximity of the Premises to said maintenance or construction, the Premises and any vehicles parked in the designated area adjacent to the Premises may be subject to dirt and dust. Operator accepts this condition without reservation as part of this Agreement and as such, shall not be entitled to a reduction in its fees to the Authority because of any dirt and dust on Operator's Premises or vehicles. Operator further understands that construction may cause inconvenience and disruption of business. Operator accepts this condition without reservation as part of this Agreement and as such, shall not be allowed any compensation or reduction in its fees to the Authority for losses suffered because of said construction.

6. USE OF PREMISES

6.1 Permitted Use. Operator and Operator Parties will use the Premises only for the operation of an FBO.

6.2 Comply with All Laws. Operator and Operator Parties shall always comply, at Operator's sole cost, with all Laws and Rules and Regulations, including all Environmental Laws, all plans and programs developed in compliance with such requirements (including, but not limited to, the Airport Security Plan), and all lawful, reasonable, and nondiscriminatory Airport policies. Upon request by Authority, Operator will verify, within a reasonable time frame, compliance with any Laws and Rules & Regulations.

6.3 No Interference; No Unauthorized Use. Operator and Operator Parties shall not use the Premises or the Airport in any manner that Authority determines (in Authority's sole and absolute discretion) interferes with any operation at the Airport or decreases the Airport's effectiveness. Operator shall immediately Notice the Authority of any use that creates such interference or decrease in effectiveness and remedy the same to Authority's sole satisfaction. Operator and Operator Parties shall use the Premises and the Airport only for purposes that are expressly authorized by this Agreement and shall not engage in any unauthorized use of the same. Unauthorized uses include, but are not limited to, any use that would damage, interfere with, or alter any improvement; restricting access on any road or other area that Operator does not lease; placing waste materials on the Airport or disposing of such materials in violation of any Laws or Rules and Regulations; any use that would constitute a public or private nuisance or a disturbance or annoyance to other Airport users; the use of automobile parking areas in a manner not authorized by Authority; self-fueling activities on the Premises or any other area that Authority has not authorized; and any use that would be prohibited by or would impair coverage under either party's insurance policies.

6.4 Permits and Licenses. Operator shall obtain and maintain in current status all permits and licenses that are required under any Laws and Rules and Regulations in connection with Operator's use, occupancy, or operations at the Premises or the Airport (including, without limitation, all permits and licenses required for the operation of a fuel farm). If Operator receives notice from any governmental authority that Operator lacks, or is in violation of, any such permit or license, Operator shall provide Authority with timely written Notice of the same.

6.5 Taxes and Liens. Operator shall pay (before their respective due dates) all taxes, fees,

assessments, and levies that relate to Operator's use, occupancy, or operations at the Premises or the Airport and all other obligations for which a lien may be created relating thereto (including, but not limited to, Utility charges and work for Additional Improvements). Within ten (10) days, Operator shall remove any such lien that may be created or commence a protest of such lien by bonding or otherwise providing adequate security for such lien. When contracting for any work in connection with the Premises, Operator shall include in such contract a provision prohibiting the contractor or any subcontractor or supplier from filing a lien or asserting a claim against Authority's real property or any interest therein. Notwithstanding the foregoing, Operator shall indemnify Authority from and against all claims related to taxes, fees, assessments, levies, or liens arising because of or attributable to Operator.

6.6 Damage to Property and Notice of Harm. In addition to Operator's indemnification obligations set forth in Article 6, Operator, at Operator's sole cost, shall repair or replace (to Authority's satisfaction) any damaged property that belongs to Authority or Authority's other tenants to the extent that such damage arises from or relates to an act or omission of Operator or Operator Parties. Operator shall promptly Notice Authority of any such property damage. If Operator discovers any other potential claims or losses that may affect Authority, Operator shall promptly Notice Authority of the same and indemnify Authority therefrom.

6.7 No Alterations or Improvements. Operator shall make no Additional Improvements or any modifications, improvements or additions to the Leased Premises that materially alter the exterior or interior walls and roof, windows, electrical system, structural elements, architectural design elements or the foundation of the Leased Premises without the Authority's written consent, which consent may be given or withheld in the Authority's sole and absolute discretion.

6.8 Signage and Advertising. Operator shall not install or operate any signage on the Premises or at the Airport except with the prior written approval of Authority (which may be given or withheld in Authority's discretion). Any approved signage shall be at Operator's expense and shall comply with Laws and Rules and Regulations (including, but not limited to, Authority's Airport signage policies and standards and the City's Ordinances). Operator shall not advertise or permit others to advertise at the Airport by any physical means, whether or not such advertising is for profit, except advertisement is permitted within the interior of the Existing Improvements provided they are not visible from the exterior when hangar doors and other doors and windows are open.

6.9 Security. Operator is responsible for complying (at Operator's sole cost) with all security measures that Authority, the TSA, or any other governmental authority having jurisdiction may require in connection with the Airport, including, but not limited to, any access credential requirements, any decision to remove Operator's access credentials, and any civil penalty obligations and other costs arising from a breach of security requirements caused or permitted by Operator or Operator Parties. Operator agrees that Authority has the right (in Authority's sole and absolute discretion) to impose any Airport security requirements that Authority may determine. Operator shall protect and preserve security at the Airport, including, but not limited to, by protecting security information and protecting any access points that are maintained by Operator to secure or sterile areas.

6.10 Removal of Disabled Aircraft. When consistent with Laws and Rules and Regulations, Operator shall promptly remove from any portion of the Airport not leased by Operator any aircraft that Operator owns or controls if it becomes disabled. Operator may store such aircraft as permitted by Laws and Rules & Regulations or, with Authority's prior written consent, elsewhere at the Airport on terms and conditions established by Authority. If Operator fails to comply with this requirement after a written request by Authority to comply, Authority may (but is not required to) cause the removal of any such aircraft at Operator's expense by any means that Authority determines, in its sole and absolute discretion, to be in Authority's best interests.

6.11 Operations. Operator's operations shall comply with the following:

6.11.1 Airport Operations. Operator shall always occupy the Premises, shall operate

during scheduled business hours as approved by Authority, and shall operate in a manner that promotes effective Airport operations. Operator shall immediately Notice the Airport Manager of any condition observed at the Airport that may create a hazard or disruption; Operator shall refrain from annoying, disturbing, or impairing Airport customers, tenants, or employees; Operator shall not divert business to off-Airport locations or engage in discriminatory business practices; and Operator shall promptly respond to Authority's requests for information and reasonable assistance in connection with planning and other operational matters at the Airport.

6.11.2 Concession Service Standard. Operator's concession shall provide high quality services and facilities (that are required by or authorized by Authority) in a good and proper manner to effectively meet the needs of the public and Authority. The privilege to operate this FBO concession shall exist only so long as the character of Operator's facilities and services are consistent with such standard.

6.11.3 Complaints. Operator shall respond in a prompt manner to questions and complaints regarding Operator's operations when raised by Airport users or by Authority, and Operator shall provide a timely resolution of such questions and complaints.

6.11.4 Emergencies. If the Authority determines for any reason that emergency conditions exist at the Airport, Operator shall participate in any emergency response as directed by Authority or other agency in charge and shall operate in a manner that protects safety and the interests of the public.

6.11.5 Safety. Operator shall maintain a safety program at the Premises that includes, at a minimum, the following: periodic training for Operator's employees and, as appropriate, Operator Parties regarding safety in connection with Operator's operations; making available material safety data sheets to Authority and, as appropriate, others for any chemicals used on the Premises at least ten (10) days prior to their use; participation in Authority's safety-related programs (such as risk management, security, and environmental management); and maintaining at all times functional fire-fighting equipment (including, but not limited to, an equipment testing program). Authority may, but is not obligated to, stop Operator's operations if safety Laws, Minimum Standards, Rules & Regulations or other safe work practices are not being observed.

6.11.6 Personnel. Operator shall control the conduct, demeanor, and appearance of its employees and Operator Parties so that they do not annoy, disturb, or impair Airport customers, tenants, or employees. Operator's employees shall possess adequate training and qualifications to carry out their assigned duties. Operator shall employ a full-time, experienced manager who has authority to act for Operator and is available at the Airport during regular business hours and a duly authorized subordinate employee who shall be available in the manager's absence.

6.11.7 Deficiencies. Without limiting or waiving any other remedies available to Authority, Authority's remedies shall include the following in connection with deficiencies in Operator's operations:

6.11.7.1 Propose and Implement Cure. Operator shall meet with the Board Chairman upon the Chairman's request regarding the quality of Operator's operations, whether or not in connection with a specific complaint. Operator shall propose curative measures in response to Authority's determinations regarding deficiencies in Operator's operations and shall implement as expeditiously as possible measures that are approved by Authority

6.11.7.2 Remove Employees and Associates. Authority shall have the right to require that Operator remove from the Airport any employee or any of Operator that Authority reasonably determines to be in violation of Section 6.11.5 (Safety), or otherwise detrimental to Authority's interests at the Airport.

6.12 No Exclusive Rights. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Title 49 U.S. Code

§§ 40103(e) and 47107(a)(4).

7. IMPROVEMENTS

7.1 Improvements. Operator shall have the right, at its sole expense, to improve, modify and make additions to the Existing Improvements leased to Operator; provided, however, that prior to any construction of Additional Improvements, including that of landscaping and/or signage, Operator must first obtain from Authority the prior written approval of all such Plans, as provided below. All construction and improvements undertaken by Operator shall be completed in a workmanlike manner without damage to the Premises or interference with other tenant/Airport activities. Operator shall: (i) conduct ongoing routine maintenance and periodic rehabilitation capital expenditure of improvements and (ii) conduct rehabilitation capital expenditure in the final two (2) years of this Agreement to ensure that all Improvements are evaluated, based on inspection by the Authority no later than four (4) months prior to lease termination, to be in the same or better condition as when received or installed, reasonable and ordinary wear and tear excluded. If such conditions do not occur, Authority shall have the option to remedy any shortcomings at the Operator's expense. Operator shall submit the Plans for the Additional Improvements and schedule to Authority for Authority's prior written authorization, and Authority shall have the right to require reasonable modifications to the same to address the condition of any Additional Improvements and the public interest. Additional Improvements performed without prior Authority approval as required by this subsection may not satisfy the requirement hereunder. Authority may impose other commercially reasonable conditions on Operator in connection with such Additional Improvements.

7.2 Protection of Utility Lines and Equipment. All work undertaken pursuant to the rights granted in paragraph 7.1 above shall be subject to the condition that Operator makes, at its expense, suitable arrangements for relocation of any Utility lines, cables, or other equipment. Further, Operator shall not pave roads or ramps over said Utility lines, cables, or equipment without the prior written approval of Authority.

7.3 Approval of Plans and Specifications. The Authority hereby reserves the right to approve any Additional Improvements, which shall, in all events, be made at Operator's sole cost and expense and pursuant to the Plans. The parties agree that it shall not be unreasonable for the Authority to condition its approval of the Plans on the written approval of the same by the FAA; provided, however, that minor, non-structural improvements, or alterations, including not limited to, paint and floor treatments, shall not require such consent. The Authority shall review the Plans and shall submit the Plans to the FAA for its review and approval. Subject to the other terms and conditions of this Agreement, Operator further covenants and agrees that it will complete FAA Form 7460-1, Notice of Proposed Construction or Alteration, and any other documents required by the Authority for submittal to the FAA prior to construction of any Additional Improvements. Operator agrees to modify the Plans to meet all applicable FAA regulations for all Improvements constructed on Airport grounds. Operator shall cooperate with the Authority to submit to the FAA any other documentation necessary to obtain the FAA's approval of the Plans. Operator shall not materially amend or change the Plans without the prior written consent of the Authority and, if required by law, the FAA. If either the Authority or the FAA rejects the Plans as presented and the Operator does not agree to alter the same to comply with the Authority's and/or FAA's requirements, then the Authority shall have the option, in its sole discretion, to reject Operator's request to make any such Additional Improvements as contemplated by the Plans.

7.4 Ownership. Ownership of all Additional Improvements, equipment, and facilities installed or erected upon the Premises which constitute fixtures and which are owned by Operator shall vest in the Authority at the expiration or other termination of this Agreement; provided that Operator may retain all its trade fixtures, furnishings and that equipment (such as telephone system, computer system, diagnostic equipment, tools, aircraft equipment, etc.) which is not normally affixed to or made a part of structure.

8. TAXES AND LICENSE FEES

8.1 Taxes, Licenses and Other Charges. Operator shall be solely responsible for payment of all taxes, licenses and other charges levied or imposed upon the rights, leasehold interest, or other

property of Operator; reserving unto Operator, however, the right to contest the validity of any such tax, license, or other charge levied or imposed.

9. MAINTENANCE

9.1 General. Operator's use, occupancy, and operations at the Premises shall be without cost or expense to Authority. Operator shall be solely responsible to maintain, repair, reconstruct, and operate the Premises and any Additional Improvements at Operator's sole cost and expense, including, but not limited to, all Utility services to the point where connected to the main source of supply or outlet [on][off] the Premises, janitorial services, waste disposal, and ramp repair. Operator shall always maintain the Premises and any Additional Improvements in a clean, safe, and sanitary condition and in good and operable condition in compliance with all applicable Laws and Rules and Regulations, and as further set forth in (i) below. Operator agrees that it shall, during the Term or any extension of this Agreement, maintain and keep Premises in a safe, workable, clean, and sanitary condition, in good repair and free from obstructions and FOD. Operator shall perform all work in accordance with Laws and Rules and Regulations, in a good and workmanlike manner, and in accordance with the standard of work performed by the Authority elsewhere at the Airport. Authority has sole and absolute discretion to determine the quality of such work. Operator shall promptly remedy any condition that fails to meet this standard. Without limiting the foregoing obligations, Operator shall not store on the Premises any inoperable equipment, discarded or unsightly materials, or materials likely to create a hazard; shall not use areas outside of the Existing Improvements and Additional Improvements for storage (except for the storage of aircraft or ground service equipment as expressly permitted by this Agreement); and shall store trash in covered metal receptacles. Any substance or material that is regulated by any Environmental Law shall be governed by Section 17. Operator shall comply with the following:

9.1.1 Maintenance. Operator agrees to maintain the Premises in a neat, orderly, and safe condition, and free from waste, rubbish, weeds, or other debris or hazards, and to perform the necessary mowing and weed control on the Premises. Operator shall not store or let stand any equipment or property belonging to the Operator or under the Operator's custody, outside the boundaries of the Premises without prior consent of the Authority's Board Chairman, except when such equipment or property is in the process of being loaded or unloaded. The exterior of all structures upon Premises shall be maintained free of rust, peeling paint, broken windows, or damaged roofing materials, panels, trim, doors, and other exterior components. All dilapidated exterior components shall be repaired or replaced. The interior of all structures on Premises shall be kept neat, clean, and safe.

9.1.2 Vehicles. Boats, trucks (except pickups), recreational vehicles, off-highway vehicles, inoperable vehicles, or unregistered vehicles may not be parked or stored upon the Premises in areas outside of the Leased Premises. Storage of such vehicles within the Leased Premises shall be subject to applicable Laws and Rules & Regulations.

9.1.3 Land. Operator agrees to maintain and keep the turf and paved Premises mowed and free and clear of all FOD to prevent damage to jet engines through the ingestion of FOD. Operator agrees to maintain and keep the turf areas free and clear of all ruts, holes, or depressions within the Premises. The Authority may, in its discretion, assist with keeping the Leased Premises free and clear of FOD.

9.2 Buildings. Operator shall maintain, at its sole cost and expense, all of Operator's Premises.

9.3 Refuse. Operator agrees to furnish covered metal containers for its refuse and to remove all refuse from the Premises at such intervals as are necessary to avoid an unsightly appearance and/or odor on the Premises.

9.4 Restoration Upon Termination. Upon termination of this Agreement for any reason, Operator shall deliver Premises and Improvements to Authority in the same or better condition as when

received or installed, reasonable and ordinary wear and tear excluded. Operator shall conduct this restoration work in the final two (2) years of the Term, and such work shall be completed for inspection by the Authority no later than four (4) months prior to the expiration of this Lease.

10. DAMAGE OR DESTRUCTION OF PREMISES

10.1 Casualty. If the Improvements are totally or substantially destroyed or damaged by a natural disaster or other casualty event such that the repair or restoration thereof cannot, using commercially reasonable efforts, be completed within twelve (12) months of the date of such destruction or damage, Operator shall have the right to terminate this Agreement by written Notice to the Authority within sixty (60) days after such damage or destruction so long as Operator has paid all Rent and other amounts due hereunder up to the date of such damage or destruction. The Agreement shall terminate three (3) months after the date of delivery of the Notice of termination by Operator. All insurance proceeds payable on account of any damage to or destruction of the Improvements, whether such proceeds are paid to either the Operator or the Authority, shall be held by the Authority and disbursed to Operator in installments to reimburse Operator for third-party restoration costs as they are incurred within thirty (30) days after the satisfaction of typical allowance disbursement requirements as more particularly set forth in Section 10.2 below. If Operator exercises the termination option in this Section, then all insurance policies and/or proceeds pertaining to the damage event shall be assigned and belong to the Authority. The parties further agree that in no event (whether the Improvements are damaged due to a casualty or other catastrophic event) shall the Rent under this Agreement abate, and further the Authority shall have no obligation to repair or restore the Premises or Improvements.

10.2 Disbursement of Insurance Proceeds Held by the Authority. Operator shall be entitled to submit to the Authority payment requests for work accomplished, materials and fixtures purchased in connection with the restoration costs for damage to or destruction of the Improvements subject to the following limitations. Each request (but no more than one (1) request per month) shall be submitted by Operator to the Authority, and the Authority shall pay the same within twenty (20) days to the various parties reflected in such requests, so long as all the following conditions are satisfied:

- (a) Operator shall have furnished to the Authority a payment request on AIA Form G-702 (or substantially similar form) certified by Operator's architect and/or designer, and certified by an officer of the Operator, specifying the percentage of labor, materials and fixtures incorporated in the work reflected in the restoration work and the materials and fixtures suitably stored at the site for the period covered by the payment request (less the aggregate of previous payments);
- (b) Operator shall have furnished to the Authority a lien waiver affidavit of each original contractor that it and all subcontractors, materialmen and vendors providing labor, and/or materials, or fixtures for such work performed in the Improvements have waived all liens, subject to the payment of then-current draw request; and
- (c) Operator shall provide the Authority with the certificate of the architect and general contractor of Operator certifying that the work upon which such request is based has, in fact, been completed and further certifying that all costs of labor and materials incorporated therein during the second month preceding such draw have been paid in full.

No such draw shall be for more than amounts due to be paid by Operator to the contractor and/or supplier in question, and shall in no event be for more than the actual documented cost of the work in question.

11. INDEMNITY

11.1 Indemnity by Operator. Operator agrees to indemnify, hold harmless, and defend Indemnified Parties from and against losses of every kind and character (including, but not limited to,

liabilities, causes of action, losses, claims, costs, fees, attorney fees, expert fees, court or dispute resolution costs, investigation costs, environmental claims, mitigation costs, judgments, settlements, fines, demands, damages, charges, and expenses) that arise out of or relate to: (i) this Agreement; (ii) any use, occupancy, or operations at the Premises or the Airport by Operator or Operator Parties; or (iii) any wrongful, reckless, or negligent act or omission of Operator or Operator Parties. Operator shall use attorneys, experts, and professionals that are reasonably acceptable to the Indemnified Party in carrying out this obligation. This obligation does not require Operator to indemnify Indemnified Parties and its officers and employees against losses (as defined above) that arise solely from the grossly negligent acts or willful misconduct of Indemnified Parties. The obligation stated in this Section 11.1 shall survive the expiration or other termination of this Agreement with respect to matters arising before such expiration or other termination. These duties shall apply whether or not the allegations made are found to be true.

11.2 Assumption of Risk; Waiver of Liability. Operator assumes all risk of the use of the Premises and the Airport, and Operator hereby knowingly, voluntarily, and intentionally waives any and all losses, liabilities, claims, and causes of action, of every kind and character, that may exist now or in the future (including, but not limited to, claims for business interruption and for damage to any aircraft) against Authority and its officers, employees, and volunteers arising from or relating to Operator's use, occupancy, or operations at the Premises or the Airport, except for those losses, liabilities, claims, and causes of action solely arising from the willful misconduct or gross negligence of the Authority or its officers, employees, and volunteers.

11.3 Immunities. Notwithstanding any other provision of this Agreement, the Authority expressly reserves all immunities to which the Authority, and any of its agents, officers, and/or directors are allowed by law, including § 4-3-47, Ala. Code 1975.

12. INSURANCE

12.1 Insurance Coverage. Operator shall procure and shall always maintain, at its sole expense, fire and windstorm coverage for the buildings included in the Premises as well as the insurance coverage required under Minimum Standards applicable to FBOs with insurance companies possessing financial ratings acceptable to Authority, and shall provide Authority with certificates of insurance evidencing the required coverage's. Authority shall be included as "additional insureds" under this coverage. For commercial property coverage, the Authority shall be included and expressly named as a "loss payee." The Authority shall retain the right to review at any time the coverage, form and amount of insurance required hereby. If, in the opinion of the Authority, the insurance provisions in this Agreement do not provide adequate protection for the Authority and for members of the public using the leased premises, the Authority may require Operator to obtain insurance sufficient in coverage, form and amount to provide adequate protection.

Authority approval of any insurance or acceptance of a certificate evidencing any policy or policies of insurance shall not be construed as a limit to Operator's liability hereunder or to fulfil the indemnification provisions and requirements of this Agreement. Notwithstanding said policy or policies of insurance, Operator shall be obligated for the full and total amount of any damage, injury or loss caused by negligence or neglect connected with this Lease or with use and occupancy of the Premises.

12.2 Cancellation of Coverage. Each of the insurance policies and certificates required herein, except for workers' compensation, shall show the Authority as an additional insured; and shall bear the following provision:

This policy cannot be canceled, reduced in amount, or coverage limited by the insurer less than thirty (30) days after mailing written notice to the insured and Authority of such alteration or cancellation, except for cancellation of the policy for non-payment of premium in which case at least ten (10) days' advance written notice shall be given to the insured and Authority.

12.3 Failure to Maintain Required Insurance. Should Operator at any time fail to provide or maintain in force any of the insurance required herein above, the Authority may but shall not be required to obtain said insurance, and the cost thereof shall be Operator's responsibility to repay as Additional Rent in the month the costs are paid by the Authority. If any coverage required hereby cannot be obtained for any reason, the Authority may require Operator to immediately cease operations until the required coverage is obtained; and if the said coverage cannot be obtained within a reasonable time as determined by the Authority, the Authority may terminate this Agreement. The parties expressly intend that the Operator shall always be insured against the risks to which it is exposed as the operator of the business authorized by this Agreement, and shall be fully covered by said policies of insurance.

13. INDEPENDENT CONTRACTOR

13.1 In conducting its business hereunder, Operator acts as an independent contractor and not as an agent of the Authority. The selection, retention, assignment, direction, and responsibility, of and for employees of Operator shall be the sole responsibility of Operator and Authority shall not attempt to exercise control over the daily performance of duties by Operator's employees. This Agreement shall not in any manner be construed as creating a joint venture or partnership, and each party shall be solely responsible for all actions it takes and expenses it incurs in carrying out its obligations under this Agreement. The provisions of this Agreement are and will be for the benefit of the Authority and Operator only and are not for the benefit of any third person, and, accordingly, no third person shall have the right to enforce the provisions of this Agreement except for the leasehold mortgagee pursuant to the terms hereinabove.

14. ASSIGNMENT, SUBLETTING AND APPROVAL OF OWNERSHIP

14.1 Restriction. Neither Operator nor Operator's successors in interest shall assign this Agreement or the Premises or any part thereof, or mortgage, pledge, or hypothecate its leasehold interest or grant any concession or license within the Premises to any person or entity without the prior written consent of the Authority, and any attempt to do any of the foregoing without the prior written consent of the Authority, shall be void and of no effect. Operator shall not be permitted to sublease this Agreement or the Premises or any part thereof. In the event Operator requests the Authority's consent as to any such assignment or other transfer, a signed counterpart of all instruments relative thereto (executed by all parties to such transaction with the exception of the Authority) shall be submitted by Operator to the Authority prior to, or contemporaneously with, the request for the Authority's consent (it being understood that no such instrument shall be effective without the consent of the Authority) and thereupon, the Authority shall have the right and option, but not the obligation, as of the requested effective date of such assignment or other transfer to: (i) consent to such transaction, or (ii) withhold consent to such transaction if, in the Authority's judgment, such transaction would not be in the best interest of the Airport or the Authority. Further, the Authority may withhold consent to the proposed transaction if Operator is then in default. If the transaction is an assignment, Operator must deliver to the Authority an assignment of the Agreement pursuant to which the assignee assumes all obligations of Operator under the Agreement. In no event may Operator sell, assign and/or transfer any interests in the Improvements without concurrently selling, transferring, or assigning its leasehold interests in the Premises in accordance with the provisions of this Section.

14.2 No Waiver; Authority's Right to Collect Rent. Consent by the Authority to a particular assignment or other transfer shall not be deemed a consent to any other or subsequent assignment or other transfer. If this Agreement is assigned, or in the event of the mortgage, pledge or hypothecation of the leasehold interest or grant of any concession or license within the Premises without the prior consent of the Authority, or if the Premises be occupied in whole or in part by anyone other than Operator without the prior consent of the Authority, the Authority may nevertheless collect Rent from the assignee, mortgagee, pledgee, party to whom the leasehold interest was hypothecated, concessionaire or licensee or other occupant and apply the net amount collected to the Rent payable hereunder, but no such transaction or collection of Rent or application thereof by the Authority shall be deemed a consent nor a waiver of the provisions of this Agreement or release of Operator from the further performance by Operator of its covenants, duties and obligations hereunder.

14.3 Restricted Assignments for Private Companies. For all purposes hereof, the following shall be deemed "assignments" which shall be restricted in accordance with the provisions of this Section: (i) a transfer by operation of law or contract or otherwise of Operator's interest in this Agreement; or (ii) a transfer, sale, assignment or alienation of any percentage interest in Operator (whether stock, partnership interest, or otherwise) in a single transaction or a related series of transactions to any person or entity; or (iii) any increase in the amount of issue and/or outstanding shares of stock of Operator and/or the creation of one (1) or more additional classes of stock of Operator in a single transaction or a related series of transactions; or (iv) a transfer, sale, assignment or alienation of a condominium unit in a condominium regime established by Operator for the development and management of the Improvements.

14.4 Restricted Assignments for Publicly Traded Companies. [Omitted].

14.5 Transfer Fee Paid to the Authority. The Authority reserves the right, and the parties hereby agree that the following is reasonable in connection with the Authority's issuance of its consent pursuant to this Section, to charge the Operator a transaction fee payable to the Authority upon any approved assignment or other transfer, which fee shall be equal to the greater of One Hundred Thousand and 0/100 Dollars (\$100,000.00) or four percent (4%) of the consideration received by the transferor or assignor in connection with the assignment transaction.

14.6 Beneficial Ownership. Operator shall notify Lessor in writing upon any material change in the beneficial ownership of Operator.

14.7 Rights of the Authority. In connection with a sale or transfer of the Airport and, or a financing entered into by the Authority, the Authority shall have the right to transfer, assign and convey, in whole or in part, the Authority's interest in the Premises and any and all of its rights under this Agreement, and in the event the Authority assigns its rights under this Agreement, and provided the transferee or assignee assumes all of the Authority's obligations under this Agreement, the Authority shall thereby be released from any further obligations hereunder, and Operator agrees to look solely to such successor in interest of the Authority for performance of such obligations. This Agreement shall be, always, subordinate to any financing executed by the Authority which presently includes the Airport Improvement Refunding Bond Series 2021, together with a Funding Agreement between the Authority and the City. In the event the Authority desires to finance the Airport, or that portion of the Airport containing the Premises, with any further or additional loans, the Authority, the Operator and the Authority's lender shall enter into a commercially reasonable subordination and non-disturbance agreement regarding this Agreement and the lease of the Premises to Operator.

14.8 Operator's Right to Mortgage Leasehold Estate. Notwithstanding anything to the contrary in subsection (a) above, upon at least thirty (30) days' prior written notice to the Authority, Operator shall have the right at any time during the Term of this Agreement to subject its leasehold interest in the Premises to a Mortgage and to renew, modify, consolidate, replace, extend, and refinance the amount of indebtedness secured by a Mortgage, subject to the conditions herein. The Authority shall not be obligated to pay any indebtedness secured by a Mortgage, and such Mortgage shall be subordinate to this Agreement, only encumbering the Operator's leasehold estate and not the Authority's fee simple estate in the Premises. Operator shall make all payments of interest and principal under any Mortgage when the same shall be due and payable. Each holder of a Mortgage shall be deemed to have agreed to all the terms and provisions of this Agreement. Operator shall give the Authority written notice of the name and address of the holder of any Mortgage and thereafter the Authority shall give to such holder of a Mortgage copies of all notices of default or other notices in writing which the Authority may give to Operator pursuant to the terms of this Agreement. Operator further agrees to require its leasehold mortgagee to provide copies of all notices of default under the Mortgage to the Authority. The holder of any Mortgage may, at its option, at any time before this Agreement has been canceled and terminated by the Authority as provided in this Agreement or before the Authority may exercise any other rights or remedies hereunder by reason of any such default by Operator, pay any and all the Rent or other sums of

money owed hereunder by Operator or do any other act required of Operator hereunder, and all payments so made and all acts so performed by the holder of such Mortgage shall be effective as if performed by Operator. The holder of a Mortgage shall not become liable to the Authority as an assignee of this Agreement until such time as the holder of said Mortgage shall by foreclosure or other appropriate proceedings in the nature thereof, or as a result of any other action or remedy provided for in such Mortgage, or by proper conveyance from Operator, acquire the rights and interests of Operator. If requested by the Authority, Operator and the holder of the Mortgage shall enter into a commercially reasonable form of subordination agreement.

15. SUSPENSION OF OBLIGATION TO PAY GROUND RENT

The obligation of Operator to pay the Ground Rent required in this Agreement shall be suspended during any period during which Operator is deprived of the use of the Premises: (i) for more than 48 hours due to the exercise of rights in and to the Premises and Airport (including, but not limited to, condemnation and eminent domain) by the United States, the State, the City, or any agency or instrumentally thereof; (ii) for more than 48 hours by any act of the Authority, whether in exercise of its rights hereunder or not; or (iii) for more than ninety (90) days due to a Force Majeure occurrence including but not limited to acts of God or the elements, natural disasters, fire, unavoidable casualties or any other causes beyond Operator's control, but nothing herein shall limit the Authority's remedies for breach by Operator of this Agreement. Operator further agrees that nothing herein shall affect Operator's obligation to make the Additional Rent payments to the Authority as required by Article 3.

16. TERMINATION BY AUTHORITY

16.1 Default. The occurrence of any one or more of the following listed events (hereinafter referred to singly as "event of default" and plurally as "events of default") shall constitute a material breach of this Agreement on the part of Operator:

- (a) Operator fails to pay the Rent or any other amount payable under this agreement when the same becomes due and payable and before it is late as described in Section 3.3 hereinabove;
- (b) The failure by Operator to perform any term or terms of this Agreement and the failure of Operator to remedy such default within a period of thirty (30) days after the receipt from Authority of Notice to remedy the same;
- (c) Provided, however, for any default under the above subsection 16.1(a), the Operator shall be afforded only one opportunity over the entire term to cure said monetary default within the thirty (30) day period specified herein. Any subsequent default pursuant to subsection 16.1(a) shall be grounds for immediate termination by Authority of this Agreement;
- (d) The assignment by Operator of all or any part of its property or assets for the benefit of creditors;
- (e) The levy of execution, attachment, or other taking of property, assets, or the leasehold interest of Operator by process of law or otherwise in satisfaction of any judgment, debt or claim;
- (f) The failure by Operator to maintain the insurance coverage required by this Agreement;
- (g) Operator abandons or vacates Premises in the reasonable judgment of the Authority;
- (h) If at any time during the Term of this Agreement the Operator should be adjudged bankrupt under the Bankruptcy Code or insolvent by any federal or State court of competent jurisdiction or should Authority reasonably deem that the Operator has

undergone a corporate reorganization or restructuring such that the financial integrity of Operator is diminished, Authority may declare this Agreement terminated and cancelled and take possession of said Premises. In the event this Agreement with Operator is terminated, the Authority or its designee will assume or enter into agreement with sub lessees that are in good standing.

16.2 Default. In the event of default pursuant to Section 16.1 above, Authority may enter the Premises, may secure the Premises to the exclusion of Operator, and may remove all persons and property from same upon the date of entry specified in Authority's Notice to Operator, however, such date of entry shall be not less than thirty (30) days from said Notice. Upon any removal of Operator's property by Authority hereunder, said property may be stored at a public warehouse or elsewhere at Operator's sole cost and expense.

16.3 Waiver. No waiver by Authority of default by Operator in performance of any term or terms of this Agreement shall be construed to be a waiver of any subsequent default. The acceptance of rental of the performance of all or any part of this Lease Agreement by Authority, for or during any period or periods after a default in performance by Operator, shall not be deemed a waiver of any right on the part of Authority to declare a default or terminate this Lease Agreement for a subsequent breach thereof.

16.4 Effect of Default. Upon the happening of any uncured event of default as defined in Section 16.1 above, Authority may terminate this Lease Agreement, as well as pursue any other remedies at law or in equity.

16.5 Termination of Agreement. In the event Authority shall terminate this Agreement or Operator's right to possession or occupancy of the Premises as provided herein, Operator shall promptly vacate the Premises, shall surrender and deliver possession thereof to Authority, and at its sole expense remove from the Premises within ten (10) business days all signs, trade fixtures, furnishings, personal property, equipment, and materials which Operator was permitted to install and maintain under the rights granted herein. Any of Operator's property not removed within ten (10) business days shall be deemed abandoned and shall become Authority property. Sub lessees with Operator shall have their agreements revert to the Airport Authority, or its designee.

17. ENVIRONMENTAL MATTERS

17.1 Operator represents and warrants to the Authority that Operator has conducted appropriate environmental site assessments or other inquiries and has determined, to Operator's sole satisfaction, that, except as permitted by the Agreement: (1) no Hazardous Material has been used, generated, manufactured, produced, stored, released, discharged or disposed of on, under, from or about the Premises; and (2) no Hazardous Material is located on or below the Premises as of the date of this Agreement. Except for those items described in Section 17(b) hereof, Operator will not use, generate, manufacture, produce, store, release, discharge or dispose of on, under, from or about the Premises, or transport to or from the Premises, any Hazardous Material or allow or suffer any other person or entity to do so. Operator represents and warrants that during the Term of this Agreement and any extensions or renewals hereof, Operator will comply with all applicable Environmental Laws.

17.2 During the Term of this Agreement and any extension or renewal hereof, the Authority agrees that Operator may: (i) use or store on the Premises such quantities of Hazardous Materials, including aviation fuel, normally used in connection with the operation of an FBO so long as such use and storage at all times complies with all applicable Environmental Laws; and (ii) install, use and maintain Storage Tanks on the Premises in connection with any aircraft stored or maintained in the Premises; provided, that the installation of any new Storage Tank shall be subject to the Authority's prior written approval. Operator shall also have the right to purchase aviation fuel from manufacturers and distributors of aviation fuel for Operator's Permitted Use on the Premises. The installation and maintenance of such Storage Tanks shall be effected in strict compliance with any applicable Environmental Law.

17.3 During the Term of this Agreement and any extension thereof, Operator shall: (i) if any

Release is made on the Premises in violation of applicable Environmental Laws by any Operator Parties, immediately Notice the Authority and thereafter remove and properly dispose thereof and remediate the Premises at Operator's sole cost and expense in accordance with applicable Environmental Laws; (ii) cause the Premises and the operations conducted thereon to comply with all applicable laws (including all applicable Environmental Laws); (iii) permit the Authority from time to time to inspect the Premises and observe Operator's operations thereon and to perform such tests as the Authority reasonably believes are necessary (including but not limited to soil and ground water tests), at the Authority's sole cost and expense (except as provided below), for Hazardous Materials on the Premises; provided the Authority endeavors to minimize any interference with Operator's use of the Premises in conducting such tests and repairs any damage to the Premises or Improvements caused by such tests; (iv) undertake any and all preventive, investigatory and remedial action (including emergency response, removal, clean up, containment, closure and other remedial action) that is (A) required by any of the applicable Environmental Laws, or (B) necessary to prevent or minimize any property damage (including damage to any of the Premises), personal injury or harm to the environment, or the threat of any such damage or injury, Release of or exposure to Hazardous Materials in connection with the Premises or the operations of the Authority on the Premises;

(v) promptly give Notice to the Authority in writing if Operator should become aware of (A) any Release of any Hazardous Material, or imminent threat thereof, at the Premises, in connection with the operations on the Premises, or at any adjacent property that could migrate to, through or under the Premises, (B) any violation of any of the applicable Environmental Laws regarding the Premises or operations on the Premises, and (C) any investigation, claim or threatened claim under any applicable Environmental Law, involving the Operator or the Premises and (vi) deliver to the Authority, at the Authority's request, copies of any and all documents in Operator's possession or to which Operator has access relating to Hazardous Materials or applicable Environmental Laws and the Premises, and the operations on the Premises, including laboratory analyses, site assessments or studies, environmental audit reports and other environmental studies and reports. If the Authority at any time reasonably believes that Operator is not complying with all applicable Environmental Laws or the requirements of this Agreement regarding the same, or that a material Release of a Hazardous Material has occurred on or under the Premises, the Authority may require Operator to furnish to the Authority an environmental audit or site assessment reasonably satisfactory to the Authority with respect to the matters of concern to the Authority. Such audit or assessment shall be performed at the Operator's expense by a qualified consultant approved by the Authority. If any assessment, test, or audit that is performed by Authority reveals that the Operator has not or is not complying with all applicable Environmental Laws or the requirements of this Agreement regarding the same, then Operator shall reimburse the Authority for its costs for such assessment, test, or audit.

17.4 Operator shall indemnify, defend and hold harmless the Indemnified Parties from and against any and all claims, losses, damages, costs, expenses, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind (including, without limitation, attorneys' fees and costs) directly or indirectly arising out of or attributable to, in whole or in part, to any of the following and in each case to the extent caused by Operator or any employees, agents, contractors, or subcontractors of Operator, or any third persons at any time occupying or present on the Premises: (i) the breach of any of the covenants, representations and warranties of this Section 17, (ii) the use, generation, manufacture, production, storage, Release, threatened Release, discharge, disposal, or presence of a Hazardous Material on, under, from or about the Premises, or any other activity carried on or undertaken on or off the Premises, (iii) in connection with the handling, treatment, removal, storage, decontamination, clean-up, transport or disposal of any Hazardous Material at any time located or present on, under, from or about the Premises, including, without limitation:

(A) all consequential damages; (B) the costs of any required or necessary repair, clean-up or detoxification of the Premises and the preparation and implementation of any closure, remedial or other required plans including, without limitation, the costs of removal or remedial action incurred by the United States Government or the State of Alabama, or response costs incurred by any other person, or damages from injury to, destruction of, or loss of natural resources, including the costs of assessing such injury, destruction or loss, incurred pursuant to the applicable Environmental Laws; and (C) liability for personal injury, illness or death, or property damage, including damages assessed for the maintenance of the

public or private nuisance, response costs or for the carrying on of an abnormally dangerous activity.

The foregoing indemnity shall further apply to any residual contamination on, under, from or about the Premises, or affecting any natural resources arising in connection with the use, generation, manufacturing, production, handling, storage, transport, discharge, or disposal of any such Hazardous Material, and irrespective of whether any of such activities were or will be undertaken in accordance with applicable Environmental Laws.

17.5 All representations and warranties contained in this Section 17 shall supersede any previous disclosures, written or oral, made by Operator or its agents to the Authority with respect to the Premises. Both parties shall be entitled to rely on the representations and warranties contained herein in pursuit of their respective rights and remedies for a breach thereof without regard to any such previous disclosures.

17.6 All representations, warranties, covenants, and indemnities of Operator in this Section 17 shall survive the expiration or earlier termination of this Agreement and any transfer of all or a portion of the Premises by Operator and continue to be binding upon Operator, and its successors and assigns.

18. SURRENDER OF PREMISES

18.1 Surrender of Premises. Operator covenants and agrees that on expiration or earlier termination of this Agreement, Operator shall peaceably surrender possession of the Premises in good condition, reasonable wear and tear, casualty, condemnation, damage caused by the Authority and any outstanding maintenance required to be performed by the Authority excepted, and Authority shall have the right to take possession of the Premises and shall not be required to give Notice to quit possession.

18.2 Removal of Personal Property. Within ten (10) business days following expiration or earlier termination of this Agreement, Operator shall remove any and all non-permanent equipment (including, without limitation, any Storage Tank(s) if requested in writing by the Authority), trade fixtures, materials, supplies, and other personal property on or about the Premises, subject to any valid claim that Authority may have thereon for unpaid Rent; provided, however, that Authority shall have the right to occupy and use the Premises immediately upon such expiration or earlier termination. Following the removal of the personal property, Operator shall, within ten (10) business days of expiration or early termination, at its sole cost and expense, repair any damage caused by such removal, and return the Premises to the same or comparable condition as existed on the Commencement Date of this Agreement, reasonable wear and tear excepted.

18.3 Ownership of Property Not Removed. It is mutually covenanted and agreed that all personal property owned and placed on the Premises by the Operator, other than the Improvements constructed thereon by Operator and certain permanent equipment installed therein by Operator, may be removed by the Operator at the termination or expiration of this Agreement, even though the same may be attached to the Premises, so long as the Operator is not then be in default under this Agreement. The removal of any such property shall be completed, and all damage caused to the Premises by such removal shall be repaired by Operator, within ten (10) business days after the termination or expiration of the Agreement. Should the Operator fail to remove said personal property within the prescribed ten (10) business day period, title to all such property shall vest in the Authority and/or the Authority may cause the removal of all or any portion of such property at the sole risk and expense of the Operator and assess Operator the costs incurred by the Authority. In the event the Authority takes title to such personal property, the Authority shall be entitled to all proceeds of sale of such Operator personal property as damages for the breach of Operator's covenant to remove.

18.4 Liens and Third-Party Claims. Operator shall surrender the Premises free and clear of all liens and third-party claims.

18.5 Environmental Tests. In addition to the obligations of Section 17, within the three (3) months immediately preceding the expiration of this Agreement or within (2) two months of any earlier

termination of the Agreement, or at a point prior to the time of any change occurring in the Premises during the Term of this Agreement, Operator shall deliver to the Authority a Phase I environmental site assessment and building conditions report prepared by a qualified environmental professional, licensed by the State of Alabama, stating that the Premises are free of any Hazardous Materials and in material compliance with all Environmental Laws. If any Hazardous Materials or violations of Environmental Laws are identified either in the report or from any event prior to surrender of the Premises, Operator is fully personally liable for removing the Hazardous Materials or remedying the violation of Environmental Law so as to leave the Premises in a condition that is in compliance with all applicable Environmental Laws and approved by the Authority. Further, Operator shall be required to pay to the Authority an amount equal to one hundred fifty percent (150%) of the Rent until the condition of the Premises is restored to the condition required in the preceding sentence. This remedy shall not be construed as authorizing an extension of an expired or terminated Agreement, or as a transfer of liability or responsibility, but shall represent only the damages to the Authority resulting from Operator's acts or omissions. Following this Agreement's expiration or termination, Operator shall be allowed access to the Premises only to the extent necessary to restore the premises to the condition required hereunder. Should Operator fail to deliver to the Authority the report required by subsection (e) above, then, in addition to all other available remedies the Authority may cause a report to be prepared to like effect and Operator shall be liable to the Authority for one hundred thirty percent (130%) of the cost of said report.

18.6 Survival of Obligations. The provisions of this Section shall survive the expiration or earlier termination of this Agreement. If the Premises are vacated, Operator is responsible for complying with all Environmental Laws and the requirements of this Section. Nothing in this Section shall be construed to relieve Operator of its obligations under this Agreement or applicable Law.

19. CONDEMNATION

19.1 Total or Substantial Taking. If all or substantially all the Land, Premises or the Improvements is taken under the power of eminent domain (which shall include a conveyance in lieu thereof), or if any part of the Land, Premises or Improvements is taken that significantly impairs Operator's ability to operate at the Premises under the Permitted Use, Operator shall have the right to terminate this Agreement upon the earlier of: (a) thirty (30) days' written notice to the Authority; or (b) when physical possession of the Land, Premises or Improvements is taken by the condemning authority, whereupon this Agreement shall terminate as of such earlier date so long as Operator shall have paid all Rent and any other charges due to such date of termination. If any Rent shall have been paid in advance, the Authority shall refund to Operator a pro-rata share of the Rent for the month in which this Agreement shall be terminated. All amounts awarded upon a taking of any part or all of the Premises, Land or the Improvements shall belong to the Authority, and Operator shall not be entitled to and expressly waives all claim to any such compensation, including any award or ascertainment for the value of Operator's leasehold estate, which value is hereby assigned to the Authority; provided, however, that Operator shall have the right to appear, claim, prove and receive any separate award by the condemning authority for damages to, or condemnation of, Alterations made by Operator, at its sole cost and expense, personal property, trade fixtures, equipment and such other installations as Operator shall be entitled to remove from the Premises, and any reimbursement of Operator's cost in moving and relocating such personal property, trade fixtures and equipment, but Operator shall not be entitled to any award for the value of the estate vested in Operator by this Agreement, which value is hereby assigned to the Authority.

19.2 Partial Taking. If less than all or substantially all the Land, Premises or Improvements is so taken by eminent domain, Operator may, in its reasonable discretion, terminate this Agreement if Operator determines that such taking significantly impairs the operating utility of the Premises for the Permitted Use, upon thirty (30) days' written notice to the Authority. If this Agreement is not so terminated upon any such partial taking or sale, the Rent payable hereunder shall be equitably adjusted to reflect the new, reduced Total Rentable Square Footage of the Land, and the Authority shall, to the extent feasible, restore the Premises and/or the Improvements to substantially their former condition; provided the Authority shall not be required to spend for such work an amount in excess of the amount received by the Authority as compensation for such taking. Further, in the event Operator does not so terminate this Agreement, the Authority and Operator, as applicable, shall apply for such purpose all condemnation

award proceeds payable to the parties on account of such taking of the Land, Premises, or Improvements, as applicable. Any condemnation proceeds shall be allocated between the Authority and Operator in accordance with this Section 19.2.

20. MEMORANDUM OF AGREEMENT

20.1 Pursuant to the authority of Section 35-4-51.1, Code of Alabama 1975, as amended, and at the Authority's election, the parties hereto agree to execute the Memorandum to be recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in lieu of recording this Agreement. All costs incurred in connection with recording the Memorandum shall be borne by Operator. Operator shall provide to the Authority a copy of the file stamped Memorandum from the Probate Office, with recording information sufficient to allow the Memorandum to be located in the public records.

21. MISCELLANEOUS PROVISIONS

21.1 Entire Agreement. This Agreement constitutes the entire understanding between the parties and supersedes all prior and independent agreements between the parties covering the subject matter hereof and the Premises. Any provisions of prior agreements which conflict in any manner with the provisions of this Agreement are hereby specifically declared void and of no effect. Any change or modification of this Agreement must be in writing signed by both parties.

21.2 Severability. In the event any provisions hereof shall be finally declared void or illegal by any court or administrative agency having jurisdiction, the remaining provisions shall continue in full force and effect as nearly as possible in accordance with the original intent of the parties.

21.3 Headings. The headings used in this Agreement are intended for convenience of reference only and do not define, expand, or limit the scope or meaning of any provisions of this Agreement.

21.4 Governing Law; Subordination. This Agreement is to be construed in accordance with the laws of the State of Alabama. This Agreement shall be subordinate to the provisions and requirements of any existing or future agreement between the Authority and the United States Government and/or the State of Alabama, relative to the development, operation, or maintenance of the Airport. Failure of the Operator or any occupant to comply with the requirements of any existing or future agreement between the Authority and the United States and/or the State of Alabama, and that continues after reasonable notice to make appropriate corrections, shall be cause for immediate termination of the Operator's rights hereunder in conflict with obligations to the United States Government and the Government of the State of Alabama.

21.5 Quiet Enjoyment. Subject to the provisions of this Agreement, Authority covenants and agrees that Operator, upon payment of the rentals provided for herein, and performance of its covenants, Agreements, and other obligations hereunder, shall have quiet and peaceable possession of the Premises granted herein during the term of this Agreement.

21.6 Approval of Signs. The number, size, type, design, and location of all signs displayed or maintained by the Operator in view of the public shall be subject to review by and the prior written approval, such approval not to be unreasonably withheld of the Airport Director. All signs must comply with applicable Laws and Rules and Regulations.

21.7 Approvals; Consents. Notwithstanding anything to the contrary contained in this Agreement, whenever the consent or approval of the Authority is required with respect to any act or omission of Operator such consent or approval shall not be unreasonably withheld.

21.8 E-Verify Compliance. Operator shall fully comply with the U.S. Department of Homeland Security employee legal status E-Verify requirements for itself and all its subcontractors, if applicable. Authority requires an affidavit attesting to Operator's compliance. Violation of the provision, unless timely

cured, shall constitute a breach of contract.

21.9 Force Majeure. If the performance by either of the parties of their respective obligations under this Agreement (excluding monetary obligations) is delayed or prevented, in whole or in part, by an event of Force Majeure, then that party shall be excused from performance of its obligations impacted by the Force Majeure event until the Force Majeure event has resolved without liability; so long as (i) performance continues for obligations not impacted by the Force Majeure event (which obligations include all monetary obligations, which shall not be excused by events of Force Majeure), (ii) the impacted party provides written notice to the other party within three (3) business days of awareness of such event, and (iii) impacted performance occurs as soon as reasonably possible, to the extent performance can occur.

21.10 Estoppel Certificates. Within twenty (20) days after each request by either party, the other shall execute and acknowledge an estoppel certificate and deliver it to the requesting party. The Authority, any mortgagee, any assignee of a mortgagee, any purchaser, or any other person specified by the requesting party may rely upon an estoppel certificate executed by the other. The estoppel certificate shall contain the following information: (a) Operator is in possession of the Premises; (b) this Agreement is in full force and effect and no defaults nor incipient defaults are outstanding on the part of the requested party (or, if there are defaults outstanding, then the certificate shall describe them in reasonable detail); (c) this Agreement is unmodified (or if this Agreement has been modified, then the certificate shall describe the modification); and (d) the dates, if any, to which Rent has been paid in advance.

21.11 Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Operator and the Authority shall be authorized to rely upon the signatures of each hereto that are delivered by facsimile, PDF or any electronic signature complying with the U.S. federal ESIGN Act of 2000 (e.g., www.docusign.com) as constituting a duly authorized, irrevocable, actual, current delivery of this Agreement with original ink signatures of each person and entity.

21.12 Representations. As of the Commencement Date, Operator represents and warrants to the Authority as follows:

(a) Operator is duly organized, validly existing and in good standing under the laws of its state of organization/formation, is qualified to do business and in good standing in the State of Alabama, and has full power, authority, and legal right to execute and deliver and to perform and observe the provisions of this Agreement to be observed and/or performed by Operator.

(b) This Agreement has been duly authorized, executed and delivered by Operator, and constitutes and will constitute the valid and binding obligations of Operator enforceable against Operator in accordance with their respective terms, except as such enforceability may be limited by creditors rights, laws, and general principles of equity. Operator has, prior to the Commencement Date, delivered to the Authority true and correct copies of Operator's organizational documents.

(c) Operator is solvent, has timely and accurately filed all Tax returns required to be filed by Operator, and is not in default in the payment of any Taxes levied or assessed against Operator or any of its assets, or subject to any judgment, order, decree, rule, or regulation of any governmental authority which would, in each case or in the aggregate, adversely affect Operator's condition, financial or otherwise or the Premises.

(d) No consent, approval, or other authorization of, or registration, declaration or filing with, any governmental authority is required for the due execution and delivery of this Agreement, or for the performance by or the validity or enforceability of this Agreement against Operator.

(e) The execution and delivery of this Agreement and compliance with the provisions hereof will not result in (i) a breach or violation of (a) any legal requirement applicable to Operator now in effect; (b) the organizational documents of Operator; (c) any judgment, order or decree of any governmental authority binding upon Operator; or (d) any agreement or instrument to which Operator is a counterparty or by which it is bound; or (ii) the acceleration of any obligation of Operator.

21.13 Attorney Fees. If either party retains an attorney to enforce this Agreement, the prevailing party shall be entitled to recover, in addition to all other items of recovery permitted by law, reasonable attorneys' fees and costs incurred, through litigation, bankruptcy proceedings and all appeals.

21.14 Bankruptcy. If the Authority shall not be permitted to terminate this Agreement because of the provisions of the Bankruptcy Code, then Operator as a debtor-in-possession or any trustee for Operator agrees promptly, within no more than fifteen (15) days upon request by the Authority to the Bankruptcy Court, to assume or reject this Agreement and Operator on behalf of itself, and any trustee agrees not to seek or request any extension or adjournment of any application to assume or reject this Agreement by the Authority with such Court. In such event, Operator or any trustee for Operator may assume this Agreement only if:

(a) it cures or provides adequate assurance that the trustee will promptly cure any default hereunder;

(b) compensates or provides adequate assurance that Operator will promptly compensate the Authority for any actual pecuniary loss to the Authority resulting from Operator's defaults; and

(c) provides adequate assurance of performance during the fully stated Term hereof of all the terms, covenants, and provisions of this Agreement to be performed by Operator. In no event after the assumption of this Agreement shall any existing default remain uncured for a period exceeding the earlier of ten (10) days or the time period set forth herein. Adequate assurance of performance of this Agreement, as set forth hereinabove, shall include, without limitation, adequate assurance: (i) of the source of rent reserved hereunder; and (ii) that the financial condition and operating performance of the proposed assignee will be similar to the financial condition and operating performance of the debtor as of the time the debtor became the Operator under the Agreement.

In the event of a filing of a petition under the Bankruptcy Code, the Authority shall have no obligation to provide Operator with any services or utilities as herein required, unless Operator shall have paid and be current in all payments of Additional Rent, Utilities, or other charges therefor.

21.15 Drafting. This Lease was drafted and executed in full compliance with the FAA Sponsor Grant Assurances, the FAA-approved Airport Layout Plan (ALP), FAA Order 5190.6B, *Airport Compliance Manual*, and the Sponsor's Minimum Standards, as may be amended from time to time. In addition, Operator reserves the right to amend the lease to bring its provisions into compliance with those guiding documents as they may be amended from time to time.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers in duplicate originals, one of which is retained by each of the parties, this the day and year first above written.

[SIGNATURE PAGE]

DRAFT

EXHIBIT A
Description of Leased Premises

1. Building 1: South Large Hangar/Office West Ramp
26,500 Square Feet
2. Building 2: Terminal/FBO building East Ramp
4,148 Square Feet

2. Fuel Farm
Two (2) above-ground 10,000 gallon storage tanks

3. Ramp/Apron Space
540,000 Square Feet

4. Unimproved Land
50,000 Square Feet

EXHIBIT B
Rent

Operator shall pay ground rent pursuant to this Agreement as follows:

B.1 Rent. Subject to re-negotiation and change of rental rates as hereinafter provided, the Operator agrees to pay the Authority for the use of the premises, facilities, rights, services, and privileges granted herein, the following rents, payable to the Authority: **TBD per RFP response and bidder award**

B.1.b Annual Ground Rent. The annual Ground Rent (payable monthly in accordance with the terms of this Agreement) of the above described land beginning _____, 2024 and each following year of the agreement shall be \$_____, as adjusted annually on _____ by the Consumer Price Index for All Urban Consumers (CPI-U) (Mobile, Alabama), or whatever CPI measure is then currently used by the Authority, and is due and payable to the Authority, in advance, on the first business day of each calendar year of the Agreement. If the index specified above is not available, the Bureau of Labor Statistics shall be requested to supply a formula for conversion of the index to an existing index and said formula shall be the basis for the computation of the rental increase. Authority may conduct an appraisal of market rents for improved and unimproved ground rental rates, and increase ground rental rates based on that appraisal, on [Month, Day] of every 5th year during the term.

B.1.c Prorated Rent. Pro-rated rent for the partial year in which this Agreement was commenced (if applicable), shall be \$_____, and shall be paid upon execution of this Agreement by Operator.

B.1.d Amendment of Premises. The rental rates and calculations in this Agreement shall not be construed to alter any other provision of this Agreement, including the duration of this Agreement and any right to terminate this Agreement. Authority reserves the right to survey and measure the Premises as Authority may determine, and to correct any error in square footage. Operator agrees that it shall execute any amendment necessary to correct an error in square footage and shall pay any adjusted rent based thereon. If Operator conducts facility development on any area that contains Improved facilities, that area may be redesignated as an Unimproved Area by mutual agreement, and an Unimproved ground rental rate paid.

B.2 Fuel Flowage Fee. The Authority imposes a Fuel Flowage Fee on all tenants at the Airport to which the Authority has granted the privilege of operating a fuel farm. The Fuel Flowage Fee is payable to the Authority based on the amount of fuel purchase by each fuel farm operator in the preceding month. As of the Effective Date of this Lease, the fuel flowage fee is \$0.10 per gallon.

B.3 Payment of Any Amount Due. Any amount due in connection with this Agreement or the use of the Airport shall be subject to the following terms; provided, however, that if any obligation is subject to payment terms pursuant to Authority ordinance or other Authority requirements that directly conflict with the following terms, such ordinance or other Authority requirements shall govern.

B.3.a Past Due Amounts. Past due amounts are subject to Section 3.7 of this Agreement.

B.3.b Dishonored Checks. If any check paid on behalf of Operator is dishonored or returned by a bank for any reason, Operator shall pay all charges assessed to Authority by the bank plus a service charge of fifty dollars (\$50.00) per occurrence (or such other amount that the Authority may implement from time to time) in addition to other sums due under this Agreement.

B.3.c No Demand and Effect of Payment. All sums relating to this Agreement shall

be due without prior notice or demand except when notice is necessary to make Operator aware of the amount due if such amount is not otherwise set forth in this Agreement. Operator shall make all payments without set-off or deduction. All sums paid by Operator shall first be applied to any past due rent beginning with the most recent amount due. No statement on any check or elsewhere shall be deemed to create an accord and satisfaction. Authority may accept any payment without prejudice to Authority's rights to recover any sum or pursue other remedies provided by this Agreement or by law. Authority's billing or acceptance of prepaid rent for time periods beyond the Expiration Date or Termination Date of this Agreement shall not serve to extend this Agreement nor Operator's right to occupy the leasehold, notwithstanding any claim Operator may have for refund of prepaid rent.

B.3.d Authority Advances. If Authority pays any amount on behalf of Operator (including, but not limited to, civil penalties assessed to Authority in connection with Operator's use of the Airport) such amount shall constitute an advance by Authority to Operator. Operator shall promptly pay the same to the Authority upon receipt of an invoice for the same.

B.3.e Authority Right to Apply. Authority shall have the right to apply any sums paid or provided by Operator in connection with this Agreement to any obligation that Operator owes to Authority, whether or not such obligation arises in connection with this Agreement.

B.3.f Payment Address. Operator shall make payments to Authority at the following address (or at such other address that Authority may designate in writing):

Fairhope Airport Authority
Post Office Drawer 429
Fairhope, Alabama 36533

B.3.g Reestablishment of Rates and Charges. The Authority in its sole and absolute discretion may from time to time reestablish (or newly initiate) any type of rates and charges at the Airport (in a manner consistent with Laws and Regulations) to provide for the Airport's operations (including, but not limited to, reestablishing the rental rate charged to Operator and all similarly situated tenants).

B.3.h No Interest. Authority shall pay no interest on any sum that Authority pays to Operator pursuant to this Agreement.

B.3.i Audit. If any sum relating to this Agreement is due based on records or calculations maintained by Operator, Operator agrees that Authority shall have the right without prior notice (during business hours) to inspect and copy all such records and calculations in accordance with Section 3.10 of the Agreement. If such audit establishes that additional sums are due to the Authority, Operator shall promptly pay such sums in accordance with the requirements of Section 10.C, and shall pay the reasonable cost of the audit if the audit establishes a collective discrepancy of more than five percent (5%) for all matters examined.

B.4 Liquidated Damages. Operator agrees that Authority will be damaged if Operator fails to comply with this Agreement. Therefore, in addition to any other remedies that Authority may have or damages that it may pursue, Authority may take the following actions and charge Operator damages as stated below not as a penalty, but as liquidated compensatory damages to pay Authority's administrative costs associated with undertaking the specified act.

B.4.a Requesting Compliance. If Operator fails to comply with any obligation under this Agreement, Authority may charge Operator one hundred dollars (\$100) for every written notice that Authority sends to Operator requesting compliance.

B.4.b Delay. If Operator fails to provide any record to Authority that Operator is required to provide under this Agreement, Authority may charge Operator one hundred dollars

(\$100) for every seven (7) calendar days that Operator requires Authority to delay its receipt of such record after Authority's written request.

B.4.c Reestablishment of Damages. Authority reserves the right to reassess its costs from time to time in connection with taking the foregoing actions (or in connection with other actions that Authority takes to enforce this Agreement) and to reestablish the amount of the foregoing liquidated damages, or implement additional liquidated damages, based on Authority's cost increases.

EXHIBIT C
NONDISCRIMINATION PROVISIONS

C.1 Civil Rights – General. Operator agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If Operator transfers its obligation to another, the transferee is obligated in the same manner as Operator. This provision obligates Operator for the period during which the Leased Premises is owned, used or possessed by Operator and the Authority remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

C.2 Civil Rights – Title VI Assurances/Compliance with Nondiscrimination Requirements.

C.2.a Compliance with Regulations. Operator will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

C.2.b Nondiscrimination. Operator, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Operator will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

C.2.c Solicitations for Subcontracts, including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation made by Operator for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Operator of Operator's obligations under this Agreement and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

C.3 Information and Reports: Operator will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Authority or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of Operator is in the exclusive possession of another who fails or refuses to furnish the information, Operator will so certify to the Authority or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

C.4 Sanctions for Noncompliance: In the event of Operator's noncompliance with the nondiscrimination provisions of this Agreement, the Authority will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- (a) Withholding payments to Operator under the Agreement until Operator complies;
- and/or
- (b) Cancelling, terminating, or suspending the Agreement, in whole or in part.

C.5 Incorporation of Provisions: Operator will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. Operator will take action with respect to any subcontract or procurement as the Authority or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Operator becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, airline may request the Authority to enter into any litigation to protect the interests of the Authority. In addition, Operator may request the United States to enter into the litigation to protect the interests of the United States.

C.6 Civil Rights – Title VI Clauses for Use/Access to Real Property. Operator for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased Premises or the Airport, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Operator will use the Leased Premises in compliance with all other requirements imposed by or pursuant to the List of Pertinent Nondiscrimination Acts And Authorities in Paragraph C below. In the event of breach of any of the above nondiscrimination covenants, the Authority will have the right to terminate the Agreement and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Agreement had never been made or issued.

C.7 Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this Agreement, Operator, for itself, its assignees, and successors in interest (hereinafter referred to collectively as “Operator”) agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

(a) **Title VI of the Civil Rights Act of 1964** (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);

(b) **49 CFR part 21** (Nondiscrimination in Federally-assisted programs of the Department of Transportation — Effectuation of Title VI of the Civil Rights Act of 1964);

(c) **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970** (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

(d) **Section 504 of the Rehabilitation Act of 1973** (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;

(e) **The Age Discrimination Act of 1975**, as amended (42 USC § 6101 *et seq.*), (prohibits discrimination on the basis of age);

(f) **Airport and Airway Improvement Act of 1982** (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

(g) **The Civil Rights Restoration Act of 1987** (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and tenants, whether such programs or activities are Federally funded or not);

(h) **Titles II and III of the Americans with Disabilities Act of 1990**, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§

12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

(i) **The Federal Aviation Administration's Nondiscrimination statute** (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

(j) **Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations**, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

(k) **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency**, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

(l) **Title IX of the Education Amendments of 1972**, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

C.8 DBE. Operator acknowledges that the provisions of 49 CFR, Part 23, Disadvantaged Business Enterprises ("DBE"), as such regulations may be amended, and such other similar regulations as may be enacted, may be applicable to the activities of Operator at the Airport, unless exempted by said regulations, and by choosing to operate at the Airport, Operator shall be deemed to have agreed to comply with the regulatory agencies, in reference thereto. These requirements may include, but not be limited to, compliance with DBE participation goals, the keeping of certain records of good faith compliance efforts, which would be subject to review by the various agencies, the submission of various reports and, if so directed, the contracting of specified percentages of goods and services contracts to DBEs.

C.9 Immigration. The Authority is committed to complying with all applicable immigration laws of the United States, including the Immigration Reform and Control Act of 1986, as amended, which act requires that all employees hired since 1986 provide proof of identity and employment eligibility before working in the United States. It is the policy of the Authority to comply fully with this requirement and to require compliance by all third-party vendors, contractors, and service providers that perform work or services upon any premises owned or operated by the Authority. Operator shall not place any of its employees at an Authority worksite, nor shall Operator permit any of its employees, nor any of its contractors or subcontractors, or their respective employees, to perform any work on behalf of or for the benefit of the Authority without first verifying and ensuring their authorization to lawfully work in the United States. Operator acknowledges, agrees, and warrants (a) that Operator maintains and follows an established policy to verify the employment authorization of its employees and to ensure continued compliance for the duration of employment, (b) that Operator has verified the identity and employment eligibility of all of its employees in compliance with applicable law, (c) that Operator has established internal safeguards and reporting policies to encourage its employees to report any suspected violations of immigration policies or of immigration law promptly to Operator's senior management, (d) that Operator has implemented a policy to verify the validity of Social Security information provided by its employees at the time of hire by Operator, (e) that Operator is without knowledge of any fact that would render any of its employees or any of its contractors or subcontractors, or their respective employees, ineligible to legally work in the United States, and (f) that Operator will promptly notify the Authority in writing in the event that any of its employees or any of its contractors or subcontractors, or their respective employees, that are working on Authority premises should lose authorization to legally work in the United States.

EXHIBIT D
REQUIRED FINANCIAL RECORDS

D.1 Monthly Statement. Operator shall furnish to Authority, on or before the fifteenth (15th) day of each month, an accurate statement setting forth all data necessary to calculate fees and charges due under this Agreement. The statement shall be in a form and with detail satisfactory to Authority and shall include, but not necessarily be limited to, a statement of gross receipts during the preceding month. Statements shall be signed by a responsible accounting officer of Operator.

D.2 Annual Statement. At Operator's expense, within forty-five (45) days after the close of its fiscal year, Operator shall furnish to Authority a statement documenting that the minimum fee and percentage fee paid by Operator to Authority during the preceding year were made in accordance with the terms of this agreement. Such statement shall also contain a list of the gross receipts as shown on the books and records of Operator for the period covered by the statement. If Authority's examination of Operator's statement or the supporting records discloses a potential for substantial error, Authority may perform an audit or have an audit performed by a certified public accountant. Operator shall pay the full cost for such audit and for any necessary revised statement. If no substantial error is found, Authority pays for the audit.

D.3 Retention of Financial Records. Operator shall maintain all financial records required to document Operator's compliance with its payment obligations to Authority, including the following: federal tax returns, Alabama Sales Tax Reports, deposit slips, credit card sales records, individual sales records, register tapes and receipt tickets.

D.4 Inspection of Books and Records. Operator shall permit Authority to inspect, audit, and copy all books and records relating to Operator's sale required to be maintained by Operator pursuant to any term of this Agreement. Authority agrees to conduct any such inspections and audits only during the normal business hours of Operator. If an inspection or audit discloses an underpayment by Operator, Operator shall forthwith pay the sum of money owed to Authority plus an Administrative Fee. Further, in the event two or more knowing underpayments are found in one calendar year, Operator shall pay Authority a charge equal to two hundred percent (200%) of the underpayments.