

LEASE AGREEMENT
Between
CITY OF POMPANO BEACH
And
POMPANO AVIATION III, LLC,

THIS AGREEMENT made and entered into this _____ day of _____, 2022, by and between:

CITY OF POMPANO BEACH, a municipal corporation of the State of Florida, whose address is 100 West Atlantic Boulevard, Pompano Beach, Florida 33060, hereinafter referred to as “CITY,”

and

POMPANO AVIATION III, LLC, a limited liability company organized and existing under and by virtue of the laws of the State of Florida, whose address is 851 N.E 10th Street, Pompano Beach, Florida 33060, hereinafter referred to as “LESSEE,”

WITNESSETH:

CITY and LESSEE, for and in consideration of the rents, covenants and mutual agreements hereinafter contained covenant and agree as follows:

1. PREMISES.

A. CITY hereby leases to LESSEE and LESSEE hereby takes from CITY, at the Pompano Beach Air Park, hereinafter referred to as the “Air Park,” in the County of Broward and State of Florida, the use of Parcel “Y,” (hereinafter the “Premises”), the legal description of which is provided for in **Exhibit “1,”** hereto and which constitutes an approximate total of 7.10 acres.

B. LESSEE shall have the right of exclusive occupation of the Premises during the term of this Lease for the purpose of providing commercial aeronautical products and

services in the manner prescribed herein. LESSEE shall furnish such commercial aeronautical products and services on a reasonable and not unjustly discriminatory basis to all users of the Air Park and shall charge reasonable, and not unjustly discriminatory, prices for each unit of service, provided that LESSEE may offer reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers. 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 49 U.S.C. Sections 40103(e), 47107(a)(4) or 47152(3), as each of the same may be amended from time to time.

C. CITY reserves the right to take any action it considers necessary to protect the aerial approaches of the Air Park against obstruction, together with the right to prevent LESSEE from erecting or permitting to be erected any building or other structure on the Air Park which would limit the usefulness of the Air Park or constitute a hazard to air navigation.

D. The Standards for Fixed Base Operators at the Pompano Beach Air Park, Pompano Beach, Florida, a copy of which is attached hereto as **Exhibit "2"** and made a part hereof as if set forth in full, and any amendments which may from time to time be adopted, (but which shall not limit the rights of LESSEE granted herein), shall be complied with in all respects by LESSEE. It is expressly understood and agreed, however, that the said Standards for Fixed Base Operators ("Standards") are minimum standards and wherever this Lease imposes standards, conditions or provisions which are stricter than said Standards for Fixed Base Operators, the provisions of this Lease shall control. LESSEE shall be required to comply with any amendments to the Standards for Fixed Base Operators applicable to the commercial aeronautical activities conducted by LESSEE; provided LESSEE will not be obligated to comply with any new or increased standard that would require LESSEE to i.) lease additional property from CITY, ii.) increase the volume of fuel storage capacity, iii.) or to remove, relocate or

substantially renovate facilities constructed by LESSEE on the Premises. For purposes of this paragraph, “substantially renovate” shall mean any capital project that would affect more than 10% of the floor area of a building or cost more than 10% of the initial construction costs of a facility required to be renovated because of the amended Standard, whichever is less.

E. This Lease shall be subordinate to the provisions of any existing or future amendment between CITY and the UNITED STATES relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport except to the extent required for the performance of any of the obligations of LESSEE hereunder. This Lease further shall be subordinate to the deed restrictions, covenants and any other applicable terms and conditions of the Quitclaim Deed dated August 29, 1947 (Deed Book 602, Page 458), Correctional Quitclaim Deed dated December 18, 1947 (Deed Book 614, Page 134) and Supplemental Quitclaim Deed dated June 24, 1948 (Deed Book 633, Page 422) (collectively the “**Quitclaim Deeds**”) by which the UNITED STATES transferred the Air Park property to CITY. In the event of any adverse decision by the Federal Aviation Administration in the form of a final order or any adverse decision by a court of competent jurisdiction that any term hereof is inconsistent with any grant agreement with UNITED STATES or the terms and conditions of the Quitclaim Deeds, CITY shall have the right to unilaterally amend this Lease so as to eliminate the inconsistency, other than those rights which are subject to Federal Aviation Agency orders, regulations or advisory circulars currently or subsequently effective. If CITY is unable to eliminate the inconsistency by amendment hereof or LESSEE declares that it is unwilling to accept the CITY’S amendment, this Lease shall terminate and LESSEE shall surrender the Premises as provided herein.

F. CITY reserves the right to further develop or improve the landing/parking area or facilities of the Air Park as it sees fit regardless of the desires or view of LESSEE without

unnecessary and/or unreasonable interference or hindrance to the operation of the Premises except as may be required by the FAA or an agency of the United States having jurisdiction over the Air Park.

G. CITY reserves the right to relocate LESSEE from the Premises upon determining that the Premises or any portion thereof is needed for purposes of further developing the Public Landing Area or any associated safety areas. CITY represents to LESSEE that on the Effective Date of this Lease, CITY is not aware of any plans or discussions relating to developing the Public Landing Area or any associated safety areas that would necessitate the relocation of LESSEE from the Premises. CITY shall endeavor to find an alternate location on the Air Park that is suitable for conduct by LESSEE of the same commercial aeronautical activities (including to the same extent and degree of LESSEE'S operations) authorized hereunder. In such event, CITY shall pay LESSEE for the unamortized cost of Capital Improvements, with an amortization period of 50 years for the lease and option terms, constructed by LESSEE on the premises as required or authorized hereunder and seek to negotiate a lease agreement for the alternate parcel on the same or similar terms and conditions as this Lease. In the event that CITY is unable to locate a suitable alternate location at the Air Park, CITY shall be authorized to terminate this Lease upon providing LESSEE with no less than twenty-four (24) month prior notice and payment of the unamortized cost of Capital Improvements constructed by LESSEE on the Premises except in the instance where the relocation is required by the FAA or an agency of the United States having jurisdiction over the Air Park.

H. LESSEE hereby represents and warrants unto CITY that it is a limited liability company authorized to transact business within the State of Florida. LESSEE further represents and warrants that it has or will obtain adequate financial resources and has the

business skill and ability to perform all obligations herein imposed upon LESSEE diligently, skillfully and successfully to operate the Premises for the purposes intended.

2. RIGHTS AND USES OF LESSEE.

IN accordance with RFP-PB-E-35-17 and the Bid response of POMPANO AVIATION III, LLC both of which are referenced and incorporated and made a part of herein, the parties agree to the following:

A. On the Premises, LESSEE may provide all or some of the facilities and services required under Section D Fixed Base Operators of the Standards for Fixed Based Operators (FBO) at the Pompano Beach Air Park, a copy of which is attached hereto as **Exhibit “2”** for general aviation aircraft purposes. LESSEE’s failure to provide at a minimum the facilities and services required under Section D (1) (a) (i) – (iv) shall be a breach of this Lease, entitling CITY to all remedies occasioned by default absent cure. LESSEE may further use the Premises for some or all of the purposes set forth in the remaining Categories of said Standards (including **Appendix “A”** – Minimum Standards for specialized Aviation Service Operators) and for such activities reasonably required for such purposes. LESSEE shall not be authorized to use the Premises for any non-aeronautical activity, including without limitation the storage of cars, trucks, recreational vehicles, boats or similar and related ground vehicles, or for any residential use. LESSEE is permitted to use the Public Landing Area in common with other Air Park users in accordance with applicable rules and regulations of the Federal Aviation Administration, the Transportation Security Administration, and CITY. In no event shall the LESSEE cause or permit the parking of aircraft or other interference in any common use apron, ramp, taxi lane, taxiway; or interfere with aircraft or Air Park operations within common use areas of the Air Park or the leaseholds of any other Air Park tenant.

B. In addition to other uses permitted under this Lease, LESSEE shall have the right but not the obligation to use the Premises for the storage and dispensing of aircraft fuel as provided in the Standards for Fixed Base Operators, any other rules and regulations of CITY, and this Lease.

C. LESSEE may but is not required to use the Premises for the purpose of operating a self-serve fuel-dispensing facility so long as LESSEE complies with both: (1) the Standards for Fixed Base Operators; and (2) the following requirements:

(1) Provide and maintain a minimum of one, but not more than two, above-ground, double-wall fuel tanks, with a minimum capacity of 5,000 gallons for 100LL octane fuel (i.e. AVGAS) or other comparable fuel for piston aircraft, and provide and maintain a minimum of one, but not more than two, above-ground, double-wall fuel tanks, with a minimum capacity of 12,000 gallons for Jet A fuel of other comparable fuel for jet aircraft together with a spill containment area;

(2) Locate all improvements including the fuel tanks, fueling terminal, metering system, lighting and a protective enclosure on concrete rigid pavement or flexible asphalt surface;

(3) Ensure that any self-fueling tank is equipped with a control device that prevents unauthorized dispensing of fuel and with an emergency shut-off valve;

(4) Comply with all Federal, State, and local environmental laws, rules, and regulations;

(5) Pay to CITY a fuel flowage charge in accordance with Section 7 hereof;

(6) Post signage communicating the location and procedures for the emergency fuel shutoff valve, as well as any emergency services contact phone numbers;

(7) Make available on the Premises during normal operating hours a trained employee available to assist with fueling and emergencies;

(8) Ensure that the self-serve fuel-dispensing facility is available during all hours of operation of the Air Park; and

(9) Upon five days written notice, allow CITY to inspect the self-serve fuel-dispensing facility being operated by LESSEE on the Premises.

3. TERM.

A. The “**Effective Date**” of this Lease shall be the date this Lease is signed by the last of the CITY or the LESSEE to sign same. As consideration for LESSEE’S agreement to construct the Capital Improvements and to pay the rental amount and fuel flowage fee, if applicable, as provided for below, CITY agrees that the initial term of this Lease (“**Initial Term**”) shall expire thirty (30) years from the Term Commencement Date of this Lease. The “**Term Commencement Date**” shall be three (3) months after the date that CITY notifies LESSEE in writing that CITY has completed all “**City’s Required Improvements**” as defined in-Section 39 below. If LESSEE does not construct the Capital Improvements as specifically provided for in this Lease, within four (4) years from and after the issuance of the last of the permits required to construct the Capital Improvements, the CITY or LESSEE may terminate this Lease.

B. In accordance with Section 250, Leases, of the City Charter, and provided no LESSEE-defaults exist which have not been cured as of the first day of any extended term, or if applicable cure periods have not yet then expired, and cure has timely commenced and is continuing, then LESSEE shall have the right and option, subject to the approval of the City Commission as provided by the City Charter, but shall in no way be obligated, to seek two extensions of the Initial Term for an additional ten (10) years each (the first ten (10) year period

being the “**First Extension Term**” and, the second ten (10) year period being the “**Second Extension Term**”) on the terms and conditions as set forth in this Lease. Should LESSEE elect not to extend this Lease for the First Extension Term or Second Extension Term, then LESSEE shall provide written notice to that effect to the CITY, which notice shall be given at least one hundred and eighty (180) calendar days prior to the last day of the final lease year of the initial thirty (30) year term (in relation to the First Extension Term) or one-hundred eighty (180) days prior to the last day of the final year of the First Extension Term (in relation to the Second Extension Term). Annual rental for the Initial Term, First and Second Extension Terms shall be determined in accordance with Section 6(E) below. The applicable term of the Lease, whether 30, 40 or 50 years, shall be referred to as “**Term**”.

4. **CAPITAL IMPROVEMENTS.**

A. In accordance with the terms of this Lease, LESSEE agrees to obtain site plan approval and construct the improvements at a minimum cost of Three Million Dollars (\$3,000,000.00) consisting of hangers and tie-downs.

B. In accordance with Section 250 of the City Charter, at least fifty percent (50%) of the Three Million Dollars (\$3,000,000.00) amount (i.e.: One Million-Five Hundred Thousand Dollars (\$1,500,000.00) shall be expended by LESSEE no later than twenty-four (24) months from the Term Commencement Date of this Lease Agreement; and the balance of the One Million-Five Hundred Thousand Dollars (\$1,500,000.00) amount shall be expended by LESSEE no later than forty-eight (48) months from the Term Commencement Date of this Lease Agreement.

C. Failure of the LESSEE to establish to the satisfaction of the City that the aforesaid sums have been expended within the time periods required herein shall constitute a breach of this Lease Agreement, entitling the City to all remedies occasioned by default.

D. With respect to those performing services or providing materials for the Capital Improvements, LESSEE shall not permit, or cause or suffer others to permit, or cause any lien against the Premises or LESSEE'S interest in the Premises, by reason of any work upon the Premises. If a lien shall be recorded, against the Premises, then LESSEE shall cause the same to be removed either through payment, bond or otherwise. CITY'S interest in the Premises shall not be subject to liens for improvements made by LESSEE.

5. DEPOSIT.

Under the execution of this Lease Agreement, LESSEE shall pay to CITY the sum of Ten Thousand Dollars (\$10,000.00) which shall be held by CITY in escrow until twenty-four (24) months have passed from the date of the execution of this Lease, after which said deposit shall be applied to the rents due hereunder.

6. RENTAL.

A. Beginning on the "Rental Commencement Date" (as hereinafter defined) of this Lease Agreement, the monthly rental amount to be paid by LESSEE for Parcel Y shall be for a total monthly amount of **\$6,443.25**, plus any applicable sales tax, subject to adjustment as provide for in Paragraphs 6.B and 6.C hereof. The "Rental Commencement Date" of this Lease shall be the date on which LESSEE'S Certificate of Occupancy has been approved by the CITY, but in any event not later than three (3) months from the Term Commencement Date.

B. The rental amount provided above in Paragraph 6.A shall be increased on an annual basis beginning on October 1st of the year following the year in which the Term Commencement Date occurs, and on October 1st of each subsequent year throughout the term of the Lease Agreement. Except for the new rental amount for the lease years beginning October 1st, and October 1st, of the years that are ten (10) years and twenty (20) years, respectively, after

the year in which the Term Commencement Date occurs, as discussed below, the annual base rental amount shall be increased by three percent (3%) per year.

C. On October 1st of the years that are ten, (10) years and twenty (20) years, respectively, after the year in which the Term Commencement Date occurs, the annual rental shall be adjusted to an amount equal to the fair market rent of the Premises based on an appraisal of comparable general aviation airports in Florida, established by an appraisal including an analysis of the fair market annual land rental range for aeronautical land at the Airpark based on a comparison with other rental rates for similar aeronautical properties within a competitive market area. However, at no time shall the adjusted rental amount be less than the preceding year's rental amount, nor shall the adjusted rental amount be greater than one hundred fifteen percent (115%) of the preceding year's rental amount. The CITY shall send the LESSEE written notice of the adjusted rent based on the CITY'S appraisal, which notice shall include a complete copy of the appraisal. If the LESSEE is not in agreement with the adjusted rent amount the LESSEE may hire its own appraiser; provided that LESSEE'S appraisal must be obtained within ninety (90) calendar days following receipt of the CITY'S notice of the adjusted rent. The LESSEE shall provide the CITY with a complete copy of any such appraisal. If the LESSEE fails to obtain an appraisal within said ninety (90) day period, then LESSEE shall thereafter have no further rights to dispute the adjusted rental amount as set forth in the CITY'S notification of the adjusted rent. If the LESSEE does obtain an appraisal within said ninety (90) calendar days and if such appraisal's finding of the fair market rental amount does not agree with the findings of the fair market rental amount in the appraisal obtained by the CITY, then the appraisers selected by the CITY and by the LESSEE shall together select a third appraiser ("Dispute Resolution Appraiser") within fifteen (15) calendar days following completion of the LESSEE appraisal. Any Dispute Resolution Appraiser must complete his appraisal ("Dispute Resolution

Appraisal”) within forty-five (45) calendar days of its employment. The findings of the fair market rental amount set forth in a Dispute Resolution Appraisal shall not be less than the fair market value determined by the LESSEE’S appraiser and shall not be greater than the fair market rental amount determined by the CITY’S appraiser. The finding of the fair market rental amount set forth in a Dispute Resolution Appraisal shall be binding on both parties. The Dispute Resolution Appraiser shall provide copies of the Dispute Resolution Appraisal to both the CITY and to the LESSEE. The expense of any Dispute Resolution Appraisal shall be borne equally by the parties, and each party shall pay for its own appraiser. Any appraiser retained by any of the parties hereunder must be an M.A.I. Appraiser or a State of Florida Certified General Appraiser, having an office in Broward or Palm Beach County within the State of Florida. If a rental adjustment is required hereunder, the previous rental then being paid shall continue until the CITY provides notice of the adjusted rent amount, and the adjustment shall be retroactive to the applicable rental adjustment date. The sum constituting the adjustment for the months of the period which have passed prior to the determination of the amount of the adjustment shall be due and payable within thirty (30) calendar days after such determination. In the event LESSEE disputes the amount of any adjustment of the rental payments, LESSEE shall continue paying the rent to the CITY under the last preceding rental adjustment until such time as the dispute has been settled, at which time an adjustment will be made retroactive to the beginning of the applicable adjustment period.

D. The monthly rental installments shall be payable in advance on the fifteenth day of each and every calendar month thereafter until the termination of the letting. If any payment is delinquent by more than fifteen (15) days after the payment is due and owing, LESSEE shall pay an additional charge of one hundred and no/100 (\$100.00) dollars per day for each day’s delay in payment, retroactive to and beginning with the due date of the payment.

E. In the event this Lease is extended for the First Extension Term and/or the Second Extension Term pursuant to the terms of this Lease, then the annual rent for the first year of each such Extension Term shall be adjusted based upon the fair market rent as provided in Section 6(C) above, with the same minimum and maximum amounts as provided therein, and the annual rent for every year of each Extension Term shall be increased by three percent (3%) per year.

7. ADDITIONAL FINANCIAL OBLIGATIONS OF LESSEE.

In addition to the rental amounts due in accordance with the preceding section, LESSEE further shall be obligated to make additional payments including, without limitation, the following:

A. In the event that LESSEE elects to sell fuel, then LESSEE shall be responsible for paying CITY a fuel flowage charge of six cents (\$.06) per gallon, which charge may be adjusted by CITY from time to time for uniform application to entities dispensing fuel at the Air Park. CITY reserves the right to inspect LESSEE'S records, and LESSEE shall make the same available upon reasonable notice by CITY, for the purpose of ensuring proper calculation and payment of the fuel flowage charge.

B. LESSEE shall be responsible for paying CITY any additional rates and charges which may uniformly be applied to Air Park tenants and users, including without limitation a landing fee for use of the Public Landing Area.

C. LESSEE shall be responsible for the collection and remittance of any percentage of revenue imposed by CITY as a condition of sublease approval, in accordance with Section 19.

D. LESSEE shall pay for all operating, maintenance and servicing charges and costs including telephone, gas, electricity, water, water connections, sewer, sewer

connections and all other expenses incurred in the use and operation of the Premises. If required by any utility agency as a condition of continuing utility services, LESSEE will install and pay for standard metering devices for the measurement of such services.

E. LESSEE shall pay before delinquency any and all taxes, assessments, licenses, fees and other public charges which may be levied, assessed or imposed upon any of LESSEE'S leasehold interest, upon LESSEE'S business, or upon LESSEE for the privilege of conducting business within the Premises.

F. LESSEE shall pay before delinquency all insurance premiums for the policies and levels of coverage prescribed in Section 12.

8. HAZARDOUS MATERIALS/OPERATIONS.

Notwithstanding anything contained in the Lease to the contrary, LESSEE may manufacture, process, distribute, use, treat, keep, store, handle, dispose of and transport "Hazardous Substances" (as defined in Federal, State and local environmental laws, rules and regulations) as are customarily manufactured, processed, distributed, used, treated, kept, stored, handled, disposed of or transported on, in or about the Premises in LESSEE'S business of operating a Fixed Base Operation in an airport, provided such Hazardous Substances are manufactured, processed, distributed, used, treated, kept, stored, handled, disposed of and transported in a manner that complies with all environmental laws, rules and regulations.

Prior to the Effective Date of this Lease, LESSEE or LESSEE'S lenders shall be authorized to investigate the environmental condition and presence of Hazardous Substances on or under the Premises and promptly shall notify CITY of the results of said investigations. LESSEE shall be responsible for the cost to clean up and remediate as may be required by applicable state or federal law any Hazardous Substance released by LESSEE during the Term of this Lease, or other health or safety matter or environmental condition, caused by the acts or

omissions of LESSEE, its invitees, agents or employees. LESSEE shall have no responsibility for the cost to clean up or remediate any Hazardous Substance, or other health or safety matter or environmental condition (i) identified by LESSEE during the investigation, or (ii) caused by CITY'S acts or omissions during the term of this Lease.

9. UNAUTHORIZED CONSTRUCTION.

CITY may, at CITY'S sole discretion, authorize future construction by LESSEE of such additional structures and facilities upon the Premises as CITY may, in its sole discretion, deem to be in the public interest. In the event any construction not specifically authorized herein, is done by LESSEE without the approval of CITY, CITY may require LESSEE, at CITY's option, to remove the same or cause the same to be changed to conform with the original design and type of construction. If LESSEE fails to commence removal or change of the non-conforming structure within forty-five (45) days from written notice by CITY, CITY may affect removal or change and the reasonable costs thereof shall be borne by and be the responsibility of LESSEE. Any future construction authorized by CITY, shall be commenced and pursued to completion in a prompt and workmanlike manner and such completion shall be achieved within a reasonable period of time, and shall be performed in accordance with all governmental requirements, including the CITY'S site plan approval and the applicable Building Code. All construction shall be subject to the review and approval of the CITY, such approval not to be unreasonably withheld, as to design, use and type of construction.

Plans and specifications shall be submitted to the Air Park Manager, whereupon the plans and specifications, along with the Air Park Manager's recommendations, shall be forwarded to the City Manager within twenty (20) days from and after LESSEE'S submission to the Air Park Manager for comments by City Manager consistent with the Minimum Standards Plan and the goals and objectives thereof. Thereafter, City Manager shall approve or disapprove, with

specific comments, in writing, the proposed plans and specifications within sixty (60) days of receipt of the Air Park Manager's recommendation. Upon approval by the City Manager, the plans and specifications shall be processed in accordance with established CITY procedures for the issuance of building permits. Any approvals of such construction by CITY shall be upon such terms and conditions as CITY may deem appropriate.

Prior to undertaking any construction including the Capital Improvements provided for in **Exhibit "3"**, LESSEE shall furnish performance bonds and payment bonds reasonably satisfactory to CITY or LESSEE shall provide for an adequate construction account or construction loan, supervised by a bank or savings and loan association with sufficient funds on deposit or included in such loan to be disbursed in accordance with a procedure to be established with the bank or savings and loan association so as to adequately satisfy CITY that the improvements will be completed and fully paid for free of liens. If such a construction account is established, the bank or savings and loan association shall furnish to CITY at the end of the second and fourth years of this Lease, a certified statement attesting to the amounts expended from said construction account.

LESSEE agrees to hold CITY harmless from any claim of lien by any contractor, subcontractor, material man or other person or firm or corporation whatsoever and LESSEE further agrees to hold CITY harmless and to reimburse CITY for all costs including cost of defense, attorneys' fees and other expenses in connection with any claim of whatsoever kind, whenever the same may be presented, arising out of any construction whatever in connection with this Lease Agreement.

10. OBLIGATIONS OF LESSEE.

A. LESSEE covenants and agrees to observe and obey and to require its officers, employees, guests, invitees and those doing business with it, to observe and obey such

non-discriminatory rules and regulations of CITY for the government of the conduct and operations of LESSEE and others on the Premises as may from time to time during the term of this Lease be promulgated by CITY for reasons of safety, health or sanitation and good order. The obligations of LESSEE to require such observance and obedience on the part of its guests, invitees and business visitors shall pertain only while such persons are on the Premises. LESSEE shall be subject to any and all amendments to such rules and regulations as CITY may adopt from time to time.

B. LESSEE shall conduct its operation hereunder in an orderly and proper manner, considering the nature of such operations so as not to unreasonably annoy, disturb, endanger or be offensive to others at the Air Park. In addition, LESSEE must operate for the use and benefit of, and service to the public without imposing excessive or unjust or abnormal requirements on customers, guest and invitees.

C. LESSEE shall take such measures:

(1) To reduce to a reasonable minimum vibrations tending to damage any equipment, structure, building or portion of a building which is on the Premises or is a part thereof, or is located elsewhere on the Air Park; and

(2) To comply with any mandatory restrictions on aircraft operations imposed by CITY designed and intended to reduce the noise exposure associated with such aircraft operations and to educate its guests, invitees and business visitors of all mandatory and voluntary noise abatement procedures imposed or recommended by CITY for the same purpose.

D. CITY agrees that the removal of LESSEE's garbage, trash and industrial waste shall be governed by the applicable provisions set forth by CITY as the same pertains to any other industrial user and LESSEE agrees to comply with the same.

E. LESSEE shall commit no unlawful nuisance, waste or injury on the Premises and shall not do or permit to be done anything which may result in the creation or commission or maintenance of such nuisance, waste or injury on the Premises.

F. LESSEE shall not create nor permit to be caused or created upon the Premises any obnoxious odors or noxious gases or vapors. The creation of exhaust fumes or fumes ordinarily experienced in the operation of aircraft by the operation in a proper manner, shall not be a violation of this Subparagraph F.

G. LESSEE shall not do or permit to be done anything which may interfere with the effectiveness or accessibility of the drainage and sewage system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located on or in the Premises.

H. LESSEE shall not do or permit to be done any act or thing upon the Premises:

(1) that will invalidate or conflict with any fire insurance Policies covering the Premises or any part thereof or contiguous Premises at the Air Park so long as LESSEE has been provided copies of such policies; or

(2) that may constitute an extra hazardous condition so as to increase the risks normally attendant upon the operations permitted by this Lease.

I. From time to time and as often as reasonably required by CITY, LESSEE shall conduct pressure and other appropriate tests of the fire extinguishing system and apparatus which constitute a part of the Premises.

J. LESSEE shall comply with all laws and ordinances and governmental rules, regulations and orders now in force or enacted at any time during the term of the Lease which as a matter of law are applicable to or which affect the operation of LESSEE of the

Premises hereunder. The obligations of LESSEE to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property on the Premises. Such provision is not to be construed as a submission by CITY to application to itself of such requirements or any of them.

K. LESSEE shall, at its own cost, make improvements to the Premises and perform such acts and do such things as shall be lawfully required by any public body having jurisdiction over said property in order to comply with sanitary requirements, fire hazard requirements, zoning requirements, setback requirements and other similar requirements designed to protect the public.

11. CARE, MAINTENANCE AND REPAIR BY LESSEE.

A. LESSEE shall throughout the term of this Lease assume the entire responsibility and shall relieve CITY from all responsibility for all repair and maintenance whatsoever on the Premises and, without limiting the generality hereof, shall:

(1) keep at all times in a clean and orderly condition and appearance the Premises and all of LESSEE's fixtures, equipment and personal property which are located in any parts of the Premises which is open to or visible by the general public; and

(2) LESSEE shall be responsible for the maintenance and repair of all utilities service lines located within the Premises except common utilities, if any, including, but not limited to, service lines for the supply of water, gas service lines, electrical power and telephone conduits and lines, sanitary sewers and storm sewers which are now or which may be subsequently located upon the Premises leased to LESSEE and used by LESSEE exclusively; and

(3) at all times during the letting, take appropriate anti-erosion measures with respect to all portions of the Premises not paved or built upon.

B. CITY may, at its option, and in addition to any other remedies which may be available to it, repair, replace, rebuild or paint all or any part of the structures and/or Premises, and the cost thereof shall be added to the rent due and payable the month following completion of such work by CITY and shall be paid by LESSEE to CITY along with said month's rent, if either:

(1) LESSEE fails in any material respect, to maintain, clean, repair, replace, rebuild or paint within a period of sixty (60) days after notice from the CITY to do so, and said notice specifies that the required work to be accomplished by LESSEE includes maintenance and/or repair that LESSEE is obligated to perform hereunder other than preventive maintenance; or

(2) for work involving preventative maintenance and repair that LESSEE is obligated to perform hereunder only, if LESSEE fails in any material respect to accomplish that specified work within one hundred eighty (180) days following notice from CITY; or

(3) within one hundred eighty (180) days, LESSEE fails in any material respect to diligently complete the repair, replacement, rebuilding or repainting of all of the Premises required to be repaired, replaced, rebuilt or painted by LESSEE under the terms of this Lease.

12. INSURANCE.

LESSEE shall during the term of this Lease insure and keep insured to the extent of the replacement value of all buildings, structures, fixtures and LESSEE'S equipment on the Premises leased to LESSEE against such hazards and risks as may now or in the future be included under the Standard Form of Fire and Extended Coverage insurance policy of the State of Florida and also against the following hazards and risks for events that occur during the Term:

A. Sprinkler leakage - by which is meant damage caused by water or any other substance discharged from any part of the fire protective equipment for LESSEE's Premises or for adjoining premises; collapse or fail of tanks forming part of such fire protective equipment or the component parts or supports of such tanks.

B. Damage caused by such perils and hazards as may now or in the future be included under any Boiler and Machinery policy filed with and approved by the Insurance Commissioner of the State of Florida, or if there be no such policy filed, then reasonable coverage against perils and hazards occasioned by the existence and operation of such boilers, provided that LESSEE shall be required to maintain such insurance only with respect to such buildings and structures in which boilers are installed.

C. LESSEE hereby agrees to fully indemnify CITY for any environmental damages caused by any aboveground or underground fuel storage tank(s) constructed on the Premises during the term of this lease. This includes, but is not limited to any damage to the soil or groundwater as a result of the use, maintenance, repair, or leakage by any means, from the storage tank(s). LESSEE agrees to provide a separate insurance policy, naming the CITY as an additional insured, providing for the remediation and payment of any damages caused by the storage tank(s), in the amount of \$1,000,000.00 for each fuel storage tank installed by LESSEE that does not exceed 12,000 gallons in capacity. In the event that LESSEE seeks to install a fuel storage tank that exceeds 12,000 gallons in capacity, LESSEE shall be required to obtain additional coverage as required by the City's Risk Manager. Furthermore, at the conclusion of the Lease term, LESSEE shall be responsible for the removal, closure, or repairs and remediation of any resulting damage, of the storage tank(s), in accordance with applicable federal, state and local guidelines and criteria. CITY shall have the sole option as to whether to require LESSEE to perform removal, closure or repair and remediation.

D. LESSEE covenants and agrees to provide and keep in force and effect comprehensive general public liability and property damage insurance which shall include independent contractors and which shall name the City of Pompano Beach as an additional insured. Such comprehensive general liability coverage shall not be less than \$1,000,000.00 combined single limit bodily injury and property damage insurance, holding harmless and indemnifying LESSEE and CITY as their interests may appear against public liability and property damage claims, and to furnish CITY at all times with an appropriate certificate from the insurance carrier showing such insurance to be in force.

E. LESSEE further agrees to provide “contracts and agreements” insurance coverage with minimum limits for bodily injury of \$100,000.00 each person, \$300,000.00 each occurrence and \$300,000.00 aggregate, and for property damage of \$50,000.00 each accident and \$100,000.00 each occurrence. These minimum limits are subject to increase depending on the nature of the contract or agreement and must be approved by the Risk Manager of the City of Pompano Beach.

F. It is further understood and agreed that LESSEE or his agents shall carry Products Liability and Completed Operations coverage with limits of liability as follows:

Bodily Injury	\$1,000,000 Each Person \$1,000,000 Each Occurrence \$1,000,000 Aggregate
Property Damage	\$1,000,000 Each Accident \$1,000,000 Aggregate

All policies of such insurance and renewal thereof shall insure CITY and LESSEE as their interests may appear.

G. LESSEE shall provide Worker’s Compensation Insurance for all of its employees in accordance with the requirements of Florida Statutes, Chapter 440. LESSEE

further agrees to be responsible for employment, control and conduct of all its employees and for any injury sustained by such employees in the course of their employment.

H. The aforesaid insurance shall be written by companies authorized to do business in the State of Florida and listed in "Best's Insurance Guide", or a comparable publication in the event of the discontinuance of publishing "Best's", said insurance company having a minimum rating in "Best's" of A+ 3A.

I. The policies or certificates representing said insurance shall be delivered by LESSEE to CITY and each policy or certificate delivered shall bear the endorsement of or be accomplished by evidence of payment of the premium thereon and also an endorsement obligating the insurance company to furnish CITY sixty (60) days' notice in advance of the cancellation of the insurance evidenced by said policy or certificate. Renewal policies or certificates shall be delivered to CITY at least sixty (60) days before the expiration of the insurance which such policies are to renew.

J. When such policies or certificates have been delivered by LESSEE to CITY as aforesaid and at any time or times thereafter, CITY may notify LESSEE in writing that the insurance represented thereby does not conform to the provisions of this paragraph either because of the amount or because of the insurance company or for any other reason and LESSEE shall have thirty (30) days in which to cure the defect. Failure to cure such defect within thirty (30) days shall constitute a breach of this Agreement by this LESSEE, entitling CITY to all remedies occasioned by default.

K. LESSEE or his agent further agree to hold harmless and indemnify the CITY OF POMPANO BEACH from any claims resulting from LESSEE's or his agent's negligence on or about the leased Premises and any operations in connection herewith.

L. Copies of all insurance policies purchased by LESSEE shall be provided to CITY and shall be subject to review by the CITY in order to determine that CITY shall incur no liability not adequately covered by insurance and all contracts pursuant to this paragraph shall be submitted to CITY prior to being entered into by LESSEE.

Said insurance requirements shall be in accordance with the Pompano Beach Air Park Minimum Standards (“Standards”) as outlined on Page 28 of said Standards.

13. DAMAGE TO OR DESTRUCTION OF PREMISES.

A. Removal of Debris. If the Premises or any part thereof shall be damaged by fire, the elements, the public enemy, riot, or other casualty, LESSEE shall promptly remove all debris resulting from such damage from the Premises and to the extent, if any, that the removal of debris under such circumstance is covered by insurance, the proceeds thereof shall be made available to LESSEE for such purpose.

B. Minor Damage. If the Premises, or any part thereof, shall be damaged by fire, the elements, the public enemy, riot or other casualty but not rendered untenable or unusable, the Premises shall be repaired with due diligence in accordance with the plans and specifications for the Premises as they existed prior to such damage, but with current Code requirements being met, by and at the expense of LESSEE and, if the damage is covered by insurance, the proceeds thereof shall be made available to LESSEE for that purpose.

C. Major Damage to or Destruction of the Premises. If the Premises or any part thereof, shall be destroyed or so damaged by fire, the elements, the public enemy, riot or other casualty and thereby rendered temporarily untenable or unusable, then:

(1) LESSEE shall have an option to make the necessary repairs or replacements for the restoration thereof in accordance with the plans and specifications as the same existed prior to such damage or destruction, provided that LESSEE within ninety (90) days

after the occurrence of such damage or destruction notifies CITY in writing that it elects to exercise its option to make the necessary repairs or replacements. If LESSEE elects to make such repairs or replacements it shall do so with reasonable dispatch provided, however, LESSEE shall not be responsible for delays caused by the insurance company or by an event of force majeure. If such destruction or damage was covered by insurance, the proceeds thereof shall be adjusted with and paid to LESSEE.

(2) If LESSEE fails to notify CITY in writing of its intention to make the necessary repairs or replacements within the ninety (90) day period provided in subparagraph (1) of this Subsection C, or if within the said ninety (90) day period LESSEE notifies CITY in writing that it does not elect to make such repairs or replacements, then CITY may at its election make such repairs or replacements provided that CITY notifies LESSEE of its election to do so within thirty (30) days following the expiration of the said ninety (90) day period. If CITY elects to make such repairs or replacements, it shall do so with reasonable dispatch and without cost to LESSEE, except that if such destruction or damage was covered by insurance, the proceeds thereof shall be adjusted with and paid to CITY.

(3) In the event that restoration is made pursuant to either subparagraphs (1) or (2) of this Subsection 13(C), the rent shall abate from the date of the damage or destruction until the Premises have been placed in a usable condition. In the event that portions of the Premises are usable, the abatement shall be pro-rated based on the percentage of usability. Such abatement shall be made pursuant to paragraph 28 hereof.

(4) In the event that neither of the two parties elects to make such repairs or replacements, then this Lease shall terminate either at the expiration of one hundred twenty (120) days from the occurrence of such destruction or damage or at the expiration of thirty (30) days following receipt of notice by CITY from LESSEE that the LESSEE does not

elect to repair or replace such damage, whichever date occurs sooner; and in any such event, the proceeds of insurance applicable to the damage or destruction (other than the proceeds applicable to debris removal) shall be distributed between LESSEE, LESSEE's mortgage lender, and CITY as their interests may appear. In such event, the payment of rentals shall terminate as of the date of the damage or destruction.

(5) Notwithstanding anything contained in this Section 13(C) to the contrary, in the event the LESSEE has not yet settled with its insurance carrier as to the amount of money to be paid by the carrier in connection with the damage by the date that the LESSEE is required to make an election or send written notice to the CITY as required in Section 13(C)(1), then the period of time for LESSEE to send such written notice or make such election shall be extended until the LESSEE has so settled with its insurance carrier provided that LESSEE notifies City in writing of the need to extend the notice period. In no event, however, shall the notice period required in Section 13(C)(1) be extended beyond a period of 180 days from the date of the damage or destruction; and if the LESSEE has not provided any required written notice to the CITY, then before the CITY can terminate this Lease Agreement pursuant to the provisions in this Section 13, the CITY shall give the LESSEE written notice and an additional fifteen (15) days for the LESSEE to provide such written notice to the CITY prior to the CITY terminating the Lease.

14. INDEMNITY.

LESSEE shall indemnify and hold harmless CITY, its Commissioners, officers, employees and representatives, from and against all claims and demands of third persons, except in cases of gross negligence, willful misconduct, including, but not limited to, claims and demands for death or personal injuries or for property damages arising out of the use or occupancy of the Premises by LESSEE or with its consent or out of any acts or omissions of

others upon the Premises with the consent of LESSEE, or arising or resulting from any breach or default by LESSEE or any of the obligations or duties assumed by or imposed upon it under this Lease, including provisions within the Deeds from which CITY derives its rights in the Air Park, said Deeds being recorded in Deed Book 602, Page 458, Deed Book 614, Page 134, and Deed Book 633, Page 422, all Broward County Public Records, or indemnification arising by operation of law.

Further, LESSEE shall pay all costs incurred and reasonable attorneys' fees incurred by CITY in the event of a necessity to defend any claim, lawsuit or cause of action whatever against CITY arising out of the LESSEE's activities at the Air Park or the execution of this Lease, be the same with or without merit. It is further understood that the above indemnification agreement extends to the act of invitees, licensees and trespassers upon the Premises leased, and LESSEE's obligations to indemnify CITY shall be cumulative with the obligations of any assignee of LESSEE, absent a specific agreement to the contrary with CITY at the time of such assignment.

Any sums due CITY under this paragraph 14 shall constitute a lien against the interest of LESSEE in the leased Premises and all of its property situated thereon to the same extent and on the same conditions as any lien arising under paragraph 22 hereof.

Said indemnification shall continue and survive for so long as the aforementioned Lease shall be in effect and thereafter for the lesser of a) four (4) years following termination of the Lease or b) the period of the shortest statute of limitations applicable to the causes of action asserted by any entity or individual in connection with or arising out of this Lease, whether the events giving rise to such cause(s) of action occur prior to or after Lease termination provided, however, that LESSEE'S indemnity obligation after termination shall be exclusively limited to only those accidents, events and occurrences arising prior to termination which as of the Effective Date of Termination (a) are known to exist and identified in writing prior to

termination by either LESSEE or CITY, or (b) are latent and not capable of being discovered or known as a result of interviews, inspections or testing (including soil, ground water testing and other forms of destructive testing). The Parties agree that CITY shall at its own cost thoroughly inspect, and if necessary, undertake such testing as CITY deems appropriate at least twenty (20) days prior to the Effective Date of termination of this Lease so as to satisfy CITY regarding the conditions of the Premises upon termination, and should CITY discover conditions or circumstances caused by LESSEE or its agents or invitees prior to termination, the LESSEE shall reimburse CITY for the reasonable costs of testing.

LESSEE acknowledges and agrees that CITY would not enter into this Lease without this indemnification of CITY by LESSEE. LESSEE expressly agrees that these indemnification provisions are intended to be as broad and inclusive as permitted by laws of the State of Florida, and that if any portion thereof is held invalid, it is agreed that the balance shall notwithstanding, continue in full force and effect.

15. SIGNS.

Except with the prior written approval of CITY, which approval shall not be unreasonably withheld or delayed and so long as same complies with all applicable governmental rules, regulations, and ordinances, including the City's Sign Code, LESSEE shall not erect, maintain or display any signs, flags or any advertising at or on the exterior parts of the Premises or in the Premises so as to be visible from outside the Premises. CITY hereby agrees that from and after the Effective Date of this Lease, LESSEE shall have the right to place a sign(s) upon the Premises indicating that there will be hanger space available for rent within the Premises, so long as such sign complies with all applicable governmental rules, regulations, and ordinances, including the City's Sign Code. CITY agrees that, in addition to the foregoing,

CITY will allow LESSEE to place signage at the entry-access road and NE 5th Avenue, provided same complies with all applicable city sign requirements and is approved by the City.

16. OBSTRUCTION LIGHTS.

LESSEE shall install, maintain and operate at its own expense with obstruction lights on the Premises as the Federal Aviation Agency may direct or as the City Manager may reasonably direct and shall energize such lights daily at sunset and for such other period as may be directed or requested by CITY.

17. ADDITIONAL RENT AND CHARGES.

If CITY is required or elects to pay any sum or sums or incurs any obligations or expenses by reason of the failure, neglect or refusal of LESSEE to perform or fulfill any one or more of the conditions, covenants or agreements contained in this Agreement or as a result of any act or omission of LESSEE contrary to said conditions, covenants and agreements, LESSEE agrees to pay the sum or sums so paid or the expense so incurred, including all interest, costs, damages and penalties, and the same may be added to any installment of rent thereafter due hereunder and each and every part of the same shall be and become additional rent recoverable by CITY in the same amount and with like remedies as if it were originally a part of the rent as set forth in paragraph 6 hereof.

18. RIGHTS OF ENTRY RESERVED.

A. CITY, by its officers, employees, agents, representatives and contractors shall have the right at all reasonable times, and with reasonable prior notice, to enter upon the Premises for the purpose of inspecting the same, for observing the performance by LESSEE of its obligations under this Agreement and for doing any act or thing which CITY may be obligated or have the right to do under this Agreement or otherwise as long as said inspection or visit does not interfere with the normal business of LESSEE.

B. Without limiting the generality of the foregoing, CITY, by its officers, employees, agents, representatives, contractors, and furnishers of utilities and other services, shall have the right, at its own cost and expense, for its own benefit or for the benefit of others than LESSEE at the Air Park, to maintain existing and future utilities, mechanical, electrical and other systems and to enter upon the Premises at all reasonable times to make such repairs, replacements or alterations thereto as may, in the opinion of CITY, be deemed necessary or advisable and from time to time to construct or install over, in or under the Premises such systems or parts thereof and in connection with such maintenance to use the Premises for access to other parts of the Air Park otherwise not conveniently accessible provided, however, that in the exercise of such rights of access, repair, alteration or new construction CITY shall not unreasonably interfere with the actual use and occupancy of the Premises by LESSEE or LESSEE's subtenants, invitees or licensees.

C. In the event that any personal property of LESSEE shall obstruct the access of CITY, or its officers, employees, agents or contractors, to any of the existing or future utility, mechanical, electrical and other systems and thus shall interfere with the inspection, maintenance or repair of any such system, LESSEE shall move such property, as directed by CITY, in order that access may be had to the system or part thereof for its inspection, maintenance or repair, and if LESSEE shall fail to do so, CITY may move it and LESSEE hereby agrees to pay the cost of such moving upon demand.

D. At any time and from time to time during reasonable business hours within the six (6) months next preceding the expiration of this Lease or immediately upon the determination by CITY of an abandonment or a breach of the Lease by LESSEE, CITY by its agents and employees, whether or not accompanied by a prospective lessee, occupier or user of the Premises, shall have the right to enter thereon, after reasonable notice, for the purpose of

exhibiting and viewing all parts of the same and during such six (6) month period, CITY may place and maintain on the Premises the usual “For Lease” signs, which signs LESSEE shall permit to remain without molestation. CITY shall not interfere with the normal business of LESSEE when entering onto property pursuant to this subsection.

E. If, during the last month of the term of this lease, LESSEE shall have removed all or substantially all of its property from the Premises, CITY may immediately enter and alter, renovate and redecorate the Premises.

F. The exercise of any or all of the foregoing rights by CITY or others shall not be or be construed to be an eviction of LESSEE nor to be made the grounds for any abatement of rental nor any claim or demand for damages, consequential or otherwise.

19. SALE, ASSIGNMENT AND SUBLEASE.

A. Except as otherwise provided in this Lease, LESSEE shall not sell, convey, assign, transfer or pledge this Lease or any part thereof or any rights created thereby or sublet the Premises or any part thereof without the prior written consent of CITY, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, LESSEE may, without CITY’S consent: (i) sublease portions of the Premises for aircraft storage, hangars and/or “T” hanger space or other permitted occupants, (ii) assign this Lease to an entity in which LESSEE or its principal holds a controlling or managing interest, or (iii) pledge this Lease as provided in Section 38 hereof. The initial form and content of any sublease pursuant to (i) above for aircraft storage and/or hangar or “T” hangar space must be approved by CITY and any such sublease shall be limited to a maximum term of one (1) year, except as may be longer if approved by the CITY Commission in writing, for individual sublease. Notwithstanding the foregoing, such one (1) year leases may include automatic renewal, or evergreen, terms. For purposes of this paragraph, transfer of more than fifty percent (50%) of the control of a LESSEE which is a

corporation, partnership or other type of business entity other than an individual shall be considered a transfer of this Lease. However, transfers within the immediate family of the current majority stockholder or transfers to trusts or other estate planning devices shall not be considered to be an assignment or transfer of this Lease even if such transfer involves a majority interest of said stock or member interest; provided further, however, that all such transfers shall be provided to CITY for informational purposes. Except with respect to the above-referenced transfers, a transfer of control of the LESSEE shall be deemed to occur when the owner or owners of more than fifty percent (50%) of the proprietary interest in the LESSEE transfer, other than between themselves, such proprietary interest to unrelated person, firm, partnership, corporation or business entity. Any LESSEE or sub-lessee (except sub-lessees of aircraft storage space) hereunder who is a corporation, partnership or other type of business entity shall submit to CITY a list of all owners of proprietary interests in the business entity as well as a list of those persons who hold security interests of whatever kind or nature in the business entity or its personal property. An updated version of such list shall be submitted to the Air Park Manager on each anniversary date of this Lease. A current list of the names and home addresses of all officers and shareholders and all persons who hold security interests of whatever kind or nature in the business entity or personal property of the business, including the amount of shares held by each shareholder, except for corporate investors in formally recognized investment or mortgage companies which may be listed by their corporate names, is attached hereto as **Exhibit “3.”** Notwithstanding anything to the contrary hereinabove LESSEE shall have the right to sublease the Fixed Based Operation Facilities and Services to a qualified third party Fixed Based Operation operator(s) who shall be responsible to provide the Fixed Based Operation Services as set forth in this Lease and in the Air Park’s Minimum Standards subject to the CITY’S approval of the operator(s). The CITY shall use reasonable discretion to approve or disapprove the third-

party operator; provided, however, that any third-party operator who through itself or any of its controlling shareholders or members operates a fixed base operation at the Air Park or at a comparable or larger facility shall not be unreasonably withheld or delayed and may be approved.

B. If, without the prior written consent of CITY, LESSEE assigns, sells, conveys, transfers, pledges or sublets in violation of subparagraph A above, or if the Premises are occupied by anybody other than LESSEE, CITY may collect rent from any assignee, sub-LESSEE or anyone who claims a right to this Lease or who occupies the Premises and CITY shall apply the net income collected to the rental herein reserved; but no such collection shall be deemed a waiver by CITY of the covenants contained in subparagraph A above or any acceptance by CITY of any such assignee or sub-lessee.

C. If at any time during the term of this Lease, any other Fixed Base Operator is granted privileges or rights specifically prohibited in Paragraph A and B above, CITY will also grant the same rights and privileges to LESSEE.

D. CITY shall have the right to assign its interest in this Lease in the event that CITY sells or leases the Air Park property to another public entity for continued operation of an airport or CITY enters into a management contract with a public or private entity to operate the Air Park on the CITY'S behalf.

20. DEFAULT BY LESSEE.

LESSEE will be considered in default of this Lease if any one or more of the following events shall occur:

A. Bankruptcy or Insolvency. Should LESSEE, at any time during the term of this Lease, suffer or permit an involuntary or voluntary petition in bankruptcy to be filed against it, or should LESSEE, by order or decree of a court be adjudged bankrupt or an order be

made approving a petition filed by any of its creditors or stockholders, or should LESSEE or any of its stockholders institute any proceedings seeking a composition, arrangement, reorganization or readjustment of LESSEE's indebtedness under the Federal Bankruptcy Laws or under any other law or statute of the United States or any state thereof, or make any assignments for the benefit of its creditors, or should a receiver or trustee or liquidator be appointed for LESSEE's property because of LESSEE's insolvency, and the said appointment not vacated within thirty (30) days thereafter, or should LESSEE's leasehold interest be levied on and the lien thereof not discharged within thirty (30) days after said levy has been made, or should LESSEE fail promptly to make the necessary returns and reports required of it by state and federal law, or should LESSEE fail promptly to comply with all governmental regulations, both state and federal, and should such failure in any manner jeopardize the rights of CITY, then and, in such event, and upon the happening of either or any of said events, CITY shall have the right, at its election, to consider the same a default on the part of LESSEE of the terms and provisions hereof and, in the event of such default not being cured by LESSEE within a period of thirty (30) days from the date of the giving by CITY of written notice to LESSEE of the existence of such default, CITY shall have the option of declaring this Lease terminated and the interest of the LESSEE forfeited, or CITY may exercise any other options herein conferred upon it. The pendency of bankruptcy proceedings or arrangement proceedings, to which LESSEE shall be a party shall not preclude CITY from exercising the option herein conferred upon it. In the event LESSEE or the trustees or receiver of LESSEE's property shall seek an injunction against CITY's exercise of the option herein conferred, such action on the part of LESSEE, its trustee or receiver, shall automatically terminate this Lease as of the date of the making of such application. In the event the court shall enjoin CITY from exercising the option herein conferred, such injunction shall automatically terminate the Lease.

B. Other Events Constituting Default.

(1) If LESSEE shall voluntarily abandon, desert or vacate the Premises or discontinue its operation at the Air Park absent an event of force majeure as provided for in this Lease; or

(2) If any lien is filed against the Premises because of any act or omission of LESSEE and is not removed or secured by bond or otherwise, within sixty (60) days after LESSEE has received written notice thereof from CITY; or

(3) If LESSEE shall fail duly and punctually to pay the rental or to make any other payment to CITY required hereunder when due to CITY and shall continue in its failure to pay rentals or to make any other payments required hereunder for a period of ten (10) business days after receipt of written notice by it from CITY to make such payments; or

(4) If LESSEE shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed within thirty (30) business days after receipt of written notice of non-compliance thereunder from CITY except where fulfillment of its obligation is prevented by causes beyond LESSEE'S control, or LESSEE'S obligation cannot reasonably be completed within such thirty (30) business day period or requires activity over a period of time and LESSEE shall have commenced to perform whatever may be required for fulfillment within thirty (30) business days after receipt of notice and continues such performances without interruption

(5) Upon the occurrence of any such event which is not cured as provided herein or at any time thereafter during the continuance thereof, CITY, by forty-five (45) days' written notice to LESSEE, may terminate the rights of LESSEE hereunder, such termination to be effective upon the date specified in such notice, but in no event sooner than

forty-five (45) days from the date thereof. Notwithstanding the foregoing, nothing in this subparagraph shall modify, eliminate or shorten LESSEE'S rights to cure or any applicable cure periods stated elsewhere in this Lease.

C. Wasting or Destruction of Property. In the event the activities of LESSEE, which are in derogation of the terms of this Lease, are such as to constitute a material wasting or destruction of the property of CITY or of any individual whose property may be rightfully and properly located at the Air Park then and in that event it shall not be necessary for CITY to suffer the wasting or destruction of said property during the aforesaid periods of notice, but in such event CITY shall give LESSEE three (3) days' written notice within which to terminate the aforesaid destruction or waste or terminate any act or practice which shall place the property of CITY or the property of any individual located properly upon the Air Park, in danger of destruction or waste. If at the expiration of the aforesaid three (3) days from the service of written notice upon LESSEE in accordance with the provisions for service of such notice as contained in this Lease, LESSEE has not terminated such waste of CITY's property and plant, or the waste of any individual's property which may be properly located upon the Air Park as aforesaid, then and, in that event, CITY shall have the right to enter upon the Premises forthwith, and LESSEE shall remove himself from the Premises forthwith and this Lease shall be deemed canceled and terminated as of the expiration of the aforesaid three (3) days.

D. No acceptance by CITY of rental, fees, charges or other payments in whole or in part for any period or periods after a default of any of the terms, covenants and conditions hereof to be performed, kept or observed by LESSEE shall be deemed a waiver of any right on the part of CITY to terminate this lease.

E. No waiver by either party of any default on the part of the other party in performance of any of the terms, covenants or conditions hereof to be performed, kept or

observed by either party shall be or be construed to be a waiver by the other party of any other or subsequent default in performance of any of the said terms, covenants and conditions.

F. The rights of declaration of default described above shall be in addition to any other rights of termination provided in this Lease and in addition to any rights and remedies that CITY would have at law or in equity consequent upon any breach of this Agreement by LESSEE and the exercise by CITY of any right of termination shall be without prejudice to any other such rights and remedies.

21. REMEDIES TO BE NON-EXCLUSIVE AND DISPUTE RESOLUTION.

A. All remedies provided in this Lease shall be deemed cumulative and additional and not in lieu of or exclusive of each other or of any other remedy available to CITY or LESSEE at law or in equity and the exercise of any remedy or the existence herein of other remedies or indemnities shall not prevent the exercise of any other remedy.

B. If a claim, dispute or other disagreement, (hereinafter “**Dispute**”) between or among CITY, LESSEE and/or any Third Party arising out of, relating to or otherwise connected with this Lease, the Parties’ dealings with each other, or with third parties, the Premises, or any other transaction or occurrence contemplated by or connected with the Parties’ business dealings (regardless of whether such claims are at law or in equity), then the Parties agree to undertake the following dispute resolution process prior to initiating a lawsuit; provided, however, if a deadline (whether imposed by contract, statute or otherwise) necessitates the filing of a court proceeding in order to preserve claims and/or toll deadlines, then such action may be filed, but shall be stayed pending the conclusion of pre-suit settlement efforts as follows:

(1) Settlement Meeting. The Parties agree to attempt in good faith to resolve all disputes on an informal basis by participating in an informal settlement meeting (“**Settlement Meeting**”). The Settlement Meeting shall take place not later than five (5) days

from an after the date of written notice from either party demanding a Settlement Meeting. The Settlement Meeting may be requested even though the time period for cure has not yet expired.

(2) Non-Binding Mediation. If the event the Dispute is not resolved in the Settlement Meeting, then as a condition precedent to litigation, the parties agree to submit the matter to a mutually agreeable mediator for non-binding mediation and shall use the American Arbitration Association (“AAA”) Commercial Mediation Rules in such mediation (although AAA shall not be used as the mediation entity). The mediation shall be conducted by one (1) mediator (selected by and paid in equal shares by both parties) not more than fifteen (15) days following the service on the other party of a request for mediation at a suitable location to be chosen by the mediator in the Courts of appropriate jurisdiction in Broward County, Florida. A request for mediation shall not be made until cure periods have expired and the Settlement Meeting has been concluded. Any settlement reached at mediation shall be enforceable as a contract in Broward County, Florida.

(3) If the Dispute is not resolved through the Settlement Meeting or Non-Binding Mediation then either party shall have the right to file a lawsuit in accordance with the terms of this Lease.

(4) Notwithstanding the foregoing, nothing in this paragraph 21 shall preclude either party from initiating a court proceeding in order to enjoin or otherwise preclude imminent harmful actions by the other party and/or third parties and/or imminent and irreversible damage to a Party. In such instance, and so long as the exigency is removed, the case shall be abated so as to allow the parties to complete the dispute resolution process above.

22. LIEN UPON REVENUES, INCOME, ETC.

In the event of LESSEE’S breach of any of the provisions of this Lease, CITY shall thereupon have a lien upon all revenues, income, rents, earnings and profits from the Premises as

additional security for LESSEE'S faithful performance of each of the terms and provisions hereof, and to secure payment of all sums owing to CITY hereunder. Such liens shall be superior in dignity to the rights of LESSEE and any of its creditors or assignees or any trustee or receiver appointed for LESSEE'S property, or any other person claiming under LESSEE, except for the Principal Money Mortgage. Upon CITY'S termination of LESSEE'S rights under this Lease by reason of LESSEE'S default, all such revenues, income, rents, earnings and profits derived or accruing from the Premises from the date of such termination by CITY shall constitute the property of CITY and the same is hereby declared to be a trust fund for the exclusive benefit of CITY and shall not constitute any asset of LESSEE or any trustee or receiver appointed for LESSEE'S property. The provisions of this paragraph shall be effective without CITY'S re-entry upon the Premises or repossession thereof and without any judicial determination that LESSEE'S interest under said Lease has been terminated.

23. SURRENDER.

LESSEE covenants and agrees to yield and deliver peaceably to CITY on the date of cessation of the Lease, whether such cessation be by termination, expiration or otherwise, possession of the Premises and all buildings, structures, pavements, facilities and permanent improvements located on the Premises free of all encumbrances, in a good state of repair and in good and usable condition, subject to reasonable wear and tear. CITY thereafter shall own, possess and have the right to lease to any third party the Premises and any facilities thereon. LESSEE shall have no right to extension or renewal upon termination of this Lease according to the terms hereof.

Personal property and furnishings belonging to LESSEE shall be removed from the Premises within thirty (30) days from the date of termination of the Lease, where termination is due to a breach of any condition imposed upon LESSEE under the terms of the Lease or whether

by natural termination due to the lapse of time, it being specifically understood that CITY shall look to the buildings constructed on the Premises as its sole security for LESSEE'S obligations under this Lease and not any personal property belonging to LESSEE which may be located on the leased premises. It is further understood that LESSEE shall have no right to remove any property, the removal of which will leave the building structurally defective and LESSEE shall be further prohibited from removing any plumbing fixtures, lighting fixtures or other items incorporated into the structure of the building.

24. REMOVAL OF LESSEE'S PROPERTY BY CITY.

If, under the terms of this Lease, LESSEE is entitled to remove its property from the Premises, but shall fail to do so on or before the termination or expiration of the letting, or after the time for removal as provided in paragraph 22 hereof, CITY may remove such property to a public warehouse for deposit or retain the same in its own possession and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale; second, to any sum owed by LESSEE to CITY, with any balance remaining to be paid to LESSEE. If the expense of such removal, storage and sale shall exceed the proceeds of the sale, LESSEE shall pay such excess to CITY upon demand.

25. LIMITATION OF RIGHTS OR PRIVILEGES GRANTED.

No greater rights or privileges with respect to the use of the Air Park or any part thereof are granted or intended to be granted to LESSEE by this Lease or by any provision thereof than the rights and privileges expressly and specifically granted hereby.

26. NOTICES.

Except where expressly required or permitted herein to be oral, all notices, requests, consents and approvals required to be given to or by either party shall be in writing and all such notices and requests shall be either i.) personally delivered to the duly designated officer or

representative of such party or ii.) delivered to the office of such officer or representative during regular business hours or iii.) forwarded to him or to the party at such address by certified or registered mail. LESSEE shall from time to time designate, in writing, an office within Broward County, Florida, an officer or representative whose regular place of business is at such office, upon whom notices and requests may be served. CITY designates the City Manager and, until further notice, LESSEE designates its President as its officer upon whom notices and requests may be served, and CITY designates its office at City Hall, 100 West Atlantic Boulevard, Pompano Beach, Florida 33060, and LESSEE designates its office at 2785 SE 11th Street, Pompano Beach, FL 33062, as its respective offices where notices and requests may be served. The notices herein required to be served shall be deemed effective and considered served as of the following: a) if by mail then the date shown on the certified or registered mail receipt for the deposit of the notice; b) if by personal delivery, the date and time of delivery stated in the sworn affidavit signed by the person delivering the notice

27. PLACE OF PAYMENTS.

All payments received from LESSEE by this Agreement shall be made at the office of the City Manager, at City Hall, 100 West Atlantic Boulevard, Pompano Beach, Florida, 33060.

28. CONSTRUCTION AND APPLICATION OF TERMS.

The paragraph and subparagraph headings, if any, in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of the provision hereof.

29. ABATEMENT.

A. If at any time LESSEE shall become entitled to an abatement of rental by the provisions of this Lease or otherwise, the abatement of rental shall be made on an equitable

basis giving effect to the amount and character of the space, the use of which is denied LESSEE as compared with the entire Premises.

B. If CITY shall, for safety or other reasons, prohibit the use of the Public Landing Area at the Air Park or of any substantial part thereof for a period covering more than fifteen (15) consecutive days, and LESSEE shall thereby be prevented from conducting those operations at the Air Park enumerated in paragraph 2 hereof, then, upon the occurrence of such event, LESSEE shall be entitled to an abatement of rental as defined herein during such period of prohibition and prevention. LESSEE hereby releases and discharges CITY of and from all claims and rights which LESSEE may have arising out of or consequent upon such closing and the subsequent interrupted use of such Public Landing Area or part thereof during the period of prohibition.

30. DEFINITIONS.

The following terms, when used in this Agreement, shall, unless the context shall require otherwise, have the respective meanings given below:

A. Air Park shall mean the land and premises in the City of Pompano Beach, County of Broward, State of Florida, described in those certain deeds recorded in Deed Book 602, Page 458, Deed Book 614, Page 134 and Deed Book 633, Page 422, Public Records of Broward County, Florida.

B. Agreement shall mean this Agreement of Lease.

C. Lease shall mean this Agreement of Lease including any supplements, modifications or amendments thereof, as long as said supplement, modification or amendments specifically identify this Lease and are executed with the same formality.

D. Letting shall mean the letting under this Lease for the original term stated herein.

E. Premises shall mean and include the land, buildings, structures and other improvements located or to be located or to be constructed therein or thereon, the equipment permanently affixed or permanently located therein, such as electrical, plumbing, sprinkler fire protection and fire alarm, heating, steam, sewage, drainage, refrigerating, communications, gas and other systems and their pipes, mains, lines, tubes, conduits, equipment and fixtures and all paving, drains, culverts, ditches and catch basins.

F. Public Landing Area shall mean the area of land at the Air Park including runways, taxiways and the areas between and adjacent to runways and taxiways, designated and made available from time to time by CITY for common use for the loading or unloading of passengers or cargo to or from aircraft using the Public Landing Area.

G. Runways (including approaches thereto) shall mean the portion of the Air Park used for the purpose of landing and taking off of aircraft.

H. Taxiways shall mean the portion of the Air Park used for the purpose of ground movement of aircraft to, from and between the runways, the public ramps and apron area, the aircraft parking and storage space and other portions of the Air Park (not including, however, any taxiways the exclusive use of which is granted to LESSEE or any other person by lease, permit or otherwise).

31. PERMITS, APPROVALS AND FEES.

It is understood and agreed that any construction on the Premises shall be accomplished in accordance with the applicable rules, regulations, resolutions and ordinances of the City, County, State and Federal governments, and that LESSEE shall be responsible for obtaining all necessary plat approvals, zoning and building permits, and any other approvals or permits which may be required, and shall pay all charges therefore, whether such charges become payable prior to or subsequent to the issuance of the approval or permit. It is specifically understood and

agreed that LESSEE shall have sole responsibility for any platting of the Premises which may be required by CITY and Broward County and for the payment of all fees and charges in connection therewith including, but not limited to, engineering, surveying and drafting charges, application, processing and recording fees, impact fees and off-site road improvement fees. The CITY and Air Park Manager shall cooperate with, support and join in, to the extent required, all necessary applications for platting, site plan approval, building permits, variances, special exceptions and other approvals, permits, and licenses for the construction and use of LESSEE's intended improvements, but shall bear no cost for the same.

32. OPERATING COSTS.

LESSEE agrees to promptly pay when due all operating, maintenance and servicing charges and costs including telephone, gas, electricity, water, water connections, sewer, sewer connections and all other expenses incurred in the use and operation of the Premises.

33. FIRE HYDRANTS AND LIFT STATION.

It is agreed that CITY, at its expense, shall provide adequate fire hydrants within a reasonable distance from any building being constructed by LESSEE to meet the minimum fire insurance requirements and safety requirements. Any such hydrant that may be required by the provisions hereof, as determined by the location of the buildings in the plans and specifications to be submitted by LESSEE, shall be installed by CITY prior to the completion of the construction of the buildings delineated in said plans. LESSEE shall have the right to install a lift station upon the Premises at LESSEE'S expense, provided the LESSEE obtains the CITY'S prior written consent to the lift station and the location of same; provided, however, that if the CITY requires that the lift station be of a size and capacity to service other properties in addition to servicing the Premises, then LESSEE shall only be responsible for the cost of what a lift

station would be that has the capacity to only serve the Premises, and the excess cost of the required lift station will be paid by CITY.

34. CONDEMNATION.

In the event that part or all of the Air Park is taken over through condemnation or any other proceeding by a governmental body having the power and authority to do so, other than CITY, this Lease shall become null and void and the rights of possession and use granted hereunder shall cease (in whole or in part) upon the taking of possession of the Premises from LESSEE, and the rights and interests of CITY and LESSEE in the award of just compensation which shall be made therefore shall be governed by the law applicable in such cases. CITY shall not be liable to LESSEE for any damages attributable to such taking.

35. RETENTION OF RECORDS AND RIGHT TO ACCESS.

LESSEE shall preserve and make available all financial records, supporting documents, statistical records and any other documents pertinent to this Lease for the shorter of: a) three (3) years or b) the period required under Chapter 119, in applicable to LESSEE, following termination of this Lease or if an audit has been initiated and audit findings have not been resolved at the end of this one (1) year, the records shall be retained until resolution of audit finding.

Additionally, LESSEE shall routinely provide CITY with an Annual Statement of gross receipts and operating expenses for informational purposes only; provided, however, such information shall remain and be confidential except as may be required to be disclosed by law.

36. PUBLIC RECORDS.

A. The City of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. The LESSEE shall comply with Florida's Public Records Law, as amended. Specifically, the LESSEE shall:

(1) Keep and maintain public records required by the CITY in order to perform the service.

(2) Upon request from the CITY'S custodian of public records, provide the CITY with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.

(3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the lease term and following completion of the lease if the LESSEE does not transfer the records to the CITY.

(4) Upon completion of the contract, transfer, at no cost to the CITY, all public records in possession of the LESSEE, or keep and maintain public records required by the CITY to perform the service. If the LESSEE transfers all public records to the CITY upon completion of the contract, the LESSEE shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the LESSEE keeps and maintains public records upon completion of the contract, the LESSEE shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY'S custodian of public records in a format that is compatible with the information technology systems of the CITY

B. Failure of the LESSEE to provide the above described public records to the CITY within a reasonable time may subject LESSEE to penalties under 119.10, Florida Statutes, as amended.

**PUBLIC RECORDS CUSTODIAN
IF THE CONTRACTOR HAS QUESTIONS REGARDING
THE APPLICATION OF CHAPTER 119, FLORIDA**

STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**CITY CLERK
100 W. Atlantic Blvd., Suite 253
Pompano Beach, Florida 33060
954-786-4611
RecordsCustodian@copbfl.com**

37. NON-DISCRIMINATION.

LESSEE, for itself, its successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the facilities on the Premises; (2) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) that LESSEE shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as the same may be amended from time to time.

38. PLEDGE OF LEASEHOLD INTEREST.

Pledge of Leasehold Interest. LESSEE shall have the right to mortgage LESSEE'S interest under this Lease to a Federal or State Savings and Loan Association, Bank or Trust Company, Insurance Company, Pension Fund, Trust, similar lending institution and/or other non-public or public or private lenders authorized to make leasehold mortgage loans or offer

leasehold financing in the State of Florida without obtaining the prior consent of the CITY, subject, however, to the other terms and conditions of this Lease.

Any reference in this Section 38 to the requirement of approval by the CITY or the City Commission is agreed by the parties to confer to the City Commission reasonable discretion in granting its approval.

If LESSEE shall mortgage its leasehold interest and if the holder of the mortgage or pledge shall forward to the CITY a duplicate original of the mortgage in recordable form, or a copy of the mortgage certified as a true copy by the Office of Official Records of Broward County, together with a written notice setting forth the name and address of the leasehold mortgagee, then, until the time that the leasehold mortgage shall be satisfied of record, the following provisions of this Section shall apply:

- i. The CITY shall provide to the leasehold mortgagee simultaneous copies of all notices required under this Lease from the CITY to LESSEE, including without limitation notices for: (1) default, (2) pursuant to Section 13(C)(3) of the Lease entitled Damage or Destruction to Premises, Major Damage to or Destruction of Premises. When giving notice to the leasehold mortgagee, the copy shall be sent by the CITY by certified mail return receipt requested to such mortgagee. No such notice to LESSEE shall be deemed to have been given, notwithstanding the provisions of this Lease, unless a copy of such notice has been so sent to the leasehold mortgagee, which notice must specify the nature of each default.
- ii. The leasehold mortgagee, upon receiving a notice of default, shall have, in addition to any period of grace extended to LESSEE under the terms of this Lease, a period of forty-five (45) days from the mailing of the notice of

default within which to cure the default or cause same to be cured or to commence to cure such default with diligence and continuity, which cure shall be completed within the latter of (a) the time period for cure as provided in this Lease; or (b) one-hundred and eighty (180) days from the date of mailing of the notice of default; provided, however, that as to any default of LESSEE for failure to pay rent, the leasehold mortgagee shall have an additional fifteen (15) days from the expiration of LESSEE'S grace period to cure such default.

- iii. Upon the happening of any default and receipt of notice of same from the CITY, LESSEE will notify the leasehold mortgagee promptly of such occurrence and shall state in the notice what action has been or will be taken by LESSEE to cure the default.
- iv. In case LESSEE shall default under any of the provisions of this Lease, the leasehold mortgagee shall have the right to cure such default whether same consists of the failure to pay rent or the failure to perform any other matter or thing which LESSEE is required to do or perform and the CITY shall accept such performance on the part of the leasehold mortgagee as though the same had been done or performed by LESSEE.
- v. In the case of any default by LESSEE, the CITY will take no action to effect a termination of the Term, without first giving the leasehold mortgagee the time set forth above as additional time to cure, within which to either: 1) obtain possession of the Premises (including possession by a receiver) and cure such default in the case of a default which is susceptible of being cured when the leasehold mortgagee has obtained possession; or 2) institute foreclosure proceedings and complete such foreclosure or otherwise acquire LESSEE'S

interest under this Lease with diligence and continuity and thereafter proceed to cure such default; provided, however, that the leasehold mortgagee shall not be required to continue such possession or continue such foreclosure proceedings if the default which would have been the reason for the CITY serving such notice of default shall be cured, and provided further, that nothing in this Section shall preclude the CITY from exercising any rights or remedies under this Lease with respect to any other default by LESSEE during any period of such forbearance, subject to the same terms and conditions for such default as set forth herein.

- vi. In the event of the termination of this Lease or of any succeeding lease made pursuant to the provisions of this Section prior to its stated expiration date, and subject to prior City Commission-review and approval, including without limitation termination in accordance with Paragraph 13(B) of the Lease, entitled Damage or Destruction to Premises, Major Damage to or Destruction of Premises, the CITY shall enter into a new lease of the Premises with the leasehold mortgagee or, at the request of such leasehold mortgagee, to a corporation formed by or on behalf of the leasehold mortgagee or of the holder of the note secured by the leasehold mortgagee, for the remainder of the Lease Term, effective on the date of termination, at the Rent and upon the covenants, agreements, terms, provisions and limitations contained in this Lease, provided that such leasehold mortgagee makes written request and executes, acknowledges and delivers to the CITY such new Lease within thirty (30) days from the date of such termination and such written request and such new lease are accompanied by payment to the CITY of all amounts then

due to the CITY, including reasonable counsel fees, court costs and disbursements incurred by the CITY in connection with any such default and termination as well as in connection with the execution and delivery of such new lease, less the income collected by the CITY subsequent to the date of termination of this Lease and prior to the execution and delivery of the new lease, any excess of such net income over the aforesaid sums and expenses to be applied in payment of the rent thereafter becoming due under such new lease. The City Commission shall review and have discretion to approve or disapprove the principals, initial or subsequent, of any corporation formed by or on behalf of the leasehold mortgagee or of the holder of the note secured by the leasehold mortgagee prior to the execution of any new lease by the leasehold mortgagee to ensure that said principals are able to perform the obligations required by the Lease in conformity with the standards and environment established by the CITY for the Airpark. Except for the prior approval of the City Commission as provided above in this subsection (vi), any new lease referred to in this Section shall not require any execution, acknowledgment or delivery by the CITY in order to become effective as against the CITY and the CITY shall be deemed to have executed, acknowledged and delivered any such new lease immediately upon receipt by the CITY of such new lease accompanied by: 1) payment to the CITY of all amounts then due to the CITY of which the leasehold mortgagee shall theretofore have received prior written notice; and 2) a written promise by the leasehold mortgagee to pay all other amounts then due to the CITY of which the leasehold mortgagee shall not have theretofore received written notice. In

addition, immediately upon receipt by the CITY of such new lease, the CITY shall be deemed to have executed, acknowledged and delivered to leasehold mortgagee an assignment of all Subleases covering the Premises which theretofore may have been assigned and transferred to the CITY and all subleases under which sub-lessees shall be required to attorney to the CITY pursuant to the terms and conditions of such subleases or this Lease. Such assignment by the CITY shall be deemed to be without recourse as against the CITY. Within ten (10) days after a written request by the leasehold mortgagee, such assignment or assignments shall be reduced to writing in recordable form and executed, acknowledged and delivered by the CITY to the leasehold mortgagee.

- vii. The leasehold mortgagee may become the legal owner and holder of this Lease by foreclosure of its mortgage or as a result of the assignment of this Lease in lieu of foreclosure, whereupon such leasehold mortgagee shall immediately become and remain liable under this Lease as provided in this Section, except that such leasehold mortgagee may assign this Lease with the CITY'S consent which shall not be unreasonably withheld or delayed.
- viii. In the event that a leasehold mortgagee shall become the owner or holder of LESSEE'S interest by foreclosure of its mortgage or by assignment of this Lease in lieu of foreclosure or otherwise, the term "Lessee" as used in this Lease, means only the owner or holder of the LESSEE'S interest for the time being so that, in the event of a sale, assignment or other disposition of Lessee's interest in this Lease by the leasehold mortgagee, the leasehold mortgagee and the leasehold mortgagee's purchaser or assignee shall be

deemed to assume and agree to carry out any and all covenants and obligations of LESSEE from and after the date that the mortgagee becomes the owner or holder.

- ix. Within ten (10) days after written request by LESSEE or by LESSEE'S leasehold mortgagee, or in the event that upon any sale, assignment or mortgaging of LESSEE'S interest in this Lease by LESSEE or LESSEE'S leasehold mortgagee, an offset statement shall be required from the CITY, the CITY agrees to deliver in recordable form a certificate to any proposed leasehold mortgagee, purchaser, assignee or LESSEE, certifying (if such be the case): 1) the amount of Rent and additional Rent, if any, due under this Lease, and the date to which said sums have been paid; 2) that this Lease is in full force and effect; 3) that the CITY has no knowledge of any default under this Lease, or if any default exists, specifying the nature of the default; 4) that there are no defenses or offsets known to the CITY which may be asserted by the CITY against the LESSEE in respect of obligations pursuant to this Lease.
- x. Reference in this Lease to acquisition of the LESSEE'S interest in this Lease by the leasehold mortgagee shall be deemed to refer, where circumstances require, to acquisition of the LESSEE'S interest in this Lease by any purchaser at a sale on foreclosure of the leasehold mortgage and provisions applicable to the leasehold mortgagee in such instance or instances shall also be applicable to any such purchaser.
- xi. So long as LESSEE'S interest in this Lease shall be mortgaged to a leasehold mortgagee, the parties agree for the benefit of such leasehold mortgagee that the CITY shall not sell, grant or convey to LESSEE all or any portion of the

CITY'S fee simple title to the Premises without the prior written consent of such mortgagee. In the event of any such sale, grant or conveyance by the CITY to the LESSEE, the CITY and LESSEE agree that no such sale, grant or conveyance shall create a merger of this Lease into a fee simple title to the Premises. This Section shall not be construed to prevent sale, grant or conveyance of the CITY'S fee simple title by the CITY to any person, firm or corporation other than LESSEE, its successors, legal representatives and assigns.

- xii. Reference in this Lease to a leasehold mortgagee shall be deemed to refer where circumstances require, to any assignee (subject to the provisions of this Section set forth above) of a leasehold mortgagee; provided that such assignee shall forward to the CITY a duplicate original of the assignment of the leasehold mortgagee in a form proper for recording or a copy of such assignment, certified as a true copy by the Office of Official Records of the applicable county, together with a written notice setting forth the name and address of the assignee.
- xiii. Any leasehold mortgage shall be specifically subject and subordinate to the CITY'S rights under this Lease except with respect to tangible and intangible assets provided and/or assigned by LESSEE to LESSEE'S lenders as collateral for loans from those lenders, and CITY agrees to timely execute in connection therewith such subordinations as may be reasonably requested conditioned upon following published CITY procedures for such subordinations. The sentence immediately preceding shall not be deemed or construed (by implication or otherwise) to impose or establish upon

LESSEE'S interest in this Lease or upon the lien of any leasehold mortgage, the superiority of any lien or encumbrance, including, without limitation, the lien of any fee mortgage, judgment, tax created directly or indirectly by, through or against the CITY or the CITY'S interest in this Lease. Despite any provision which is or may appear to the contrary in this Lease, under no circumstances whatsoever shall the fee simple title interest of the CITY in the Premises, or any portion of same, be subordinated, except for a mortgage on LESSEE'S leasehold interest.

- xiv. In addition to the rights set forth above, the written consent of the leasehold mortgage holder, which consent shall not be unreasonably withheld or delayed, shall be required as to the allocation of the insurance proceeds as set forth in Section 13 (C)(4), entitled Damage or Destruction to Premises, Major Damage to or Destruction of Premises.
- xv. Notwithstanding anything to the contrary in this paragraph 37 and the Lease, CITY shall cooperate with LESSEE in obtaining financing. CITY'S cooperation shall include, but not be limited to, execution of such documents and consents as may be reasonably required by LESSEE'S lenders, providing access and, where paid for by LESSEE, copies of documentation and information reasonably requested and such other cooperative measures needed to allow LESSEE to fully develop the Premises and to comply with the Lease.

39. CONSTRUCTION AND OTHER OBLIGATIONS OF CITY.

CITY, at its expense, shall construct/provide the following: (i) the installation, paving and extension of the inner perimeter service road providing vehicular access to and from the boundary of the Premises as reflected on **Exhibit "5"** attached hereto; (ii) extension of all water

and sewer to, and stubbed out at, the boundary of the Premises. The foregoing installation, paving and extensions are collectively referred to as the “**CITY’S Required Improvements**”. The CITY’S Required Improvements shall be completed within four (4) years of the Effective Date of this Lease. Notwithstanding the foregoing at any time prior to the CITY commencing the CITY’S Required Improvements, LESSEE will have the right, but not the obligation, to be exercised by LESSEE in writing to CITY, to elect to complete all such City’s Required Improvements in accordance with the engineering plans and specifications previously prepared for the CITY by HDR Engineering, Inc. (the “Engineering Company”), (which plans and specifications shall be provided by CITY to LESSEE upon request by LESSEE). The Table for such plans and specifications is attached hereto as **Exhibit “7”** and made a part hereof. If LESSEE completes the CITY’S Required Improvements pursuant to this Section 39, then LESSEE shall receive a credit in the amount of \$930,000.00 (the “CITY’s Required Improvements Credit”) against the Capital Improvement Expenses under this Lease until the entire CITY’s Required Improvements Credit has been so applied. The CITY’s Required Improvements Credit was determined by the Engineering Company as the projected cost of completing the CITY’s Required Improvements. In the event the CITY has not completed the CITY’S Required Improvements within four (4) years of the Effective Date of this Lease and LESSEE has not elected to do it, then the LESSEE shall have the right to terminate this Lease upon written notice to CITY, in which event (i) all prepaid monies paid by LESSEE to CITY in connection with this Lease, and (ii) all verifiable soft costs paid by LESSEE in connection with its intended Capital Improvements, including, without limitation, architectural, engineering and contractor fees, shall be paid to LESSEE by CITY, and the parties shall thereafter be released of all further costs and obligations under this Lease.

40. STORM/SURFACE WATER DRAINAGE.

LESSEE shall be responsible for constructing at its expense all onsite drainage facilities within the Premises; provided, however, that the onsite drainage facilities may drain offsite to appropriate retention ponds and other drainage sites authorized by the Master Drainage Plan for the Air Park. CITY agrees that LESSEE will have the right to offsite drainage within the area located east of Taxiway per the sketch Bravo shown on **Exhibit “6”** attached hereto and LESSEE shall, at its expense, install the necessary pipe from the Premises to such drainage site. The CITY shall modify LESSEE’S drainage permit with Broward County prior to the Term Commencement Date. The CITY agrees that LESSEE will be entitled to all fill to be used for the Premises that is obtained from the CITY excavating the new drainage pond that will serve as the off-site drainage facility for the Premises and other surrounding properties. LESSEE shall further be responsible for constructing the facilities necessary to connect the Premises to that drainage pond as provided for in **Exhibit “4”** (which is found online on the City of Pompano Beach’s website) and CITY shall cooperate with LESSEE and its design and construction professionals in all respects so as to accomplish the same. Said facilities shall be constructed at LESSEE’S expense on non-leasehold property. All offsite drainage facilities servicing the Premises shall be consistent with the Master Drainage Plan approved by Broward County.

Any and all drainage plans shall comply with all requirements of the Federal Aviation Administration Advisory Circulars regarding Airport Design and Construction Standards.

CITY shall cooperate with LESSEE and LESSEE’S designers and contractors with respect to the development of storm and surface water drainage facilities serving the Premises and shall execute such documents as may be reasonably necessary to accomplish the same.

LESSEE further agrees to comply with any and all regulations mandated by Broward County as it relates to Storm Water requirements including but not limited to, applying for and

actively maintaining a DEP NPDES Permit from Broward County within six (6) months from the Effective Date of this Agreement.

41. CONSTRUCTION OF TAXIWAY BRAVO CONNECTOR.

Lessee shall construct, at its own expense, an aircraft parking apron and associated taxi lane in order to connect the existing Taxiway to the Eastern Boundary of the parcel connecting to Taxiway Bravo.

42. RIGHT TO RECORD.

Either CITY or LESSEE shall have the right to record this Lease or a written Memorandum of this Lease in the public records of Broward County, Florida, at their own expense. Upon request by the LESSEE, the CITY agrees to simultaneously with the execution of this Lease enter into a Memorandum of Lease, in a form satisfactory to the CITY, for purposes of recording same in the public records.

43. INGRESS AND EGRESS.

CITY hereby grants to LESSEE, LESSEE'S subtenants, and their respective agents, employees, guests and invitees, during the term of this Lease, an easement for ingress and egress over and the inner-perimeter road and any extensions thereof. Furthermore, as part of CITY'S planned development of the Air Park, CITY shall install, and thereafter, maintain, a paved access road to the Premises for public use to be called NE 16 Street as described in Section 39 above.

44. GOVERNING LAW AND JURY WAIVER.

This Lease shall be governed by the laws of the State of Florida with venue lying in a court of competent jurisdiction.

WAIVER OF JURY TRIAL. THE PARTIES HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT WHICH EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION,

PROCEEDING, DEFENSE OR COUNTERCLAIM BASED UPON THIS LEASE OR RELATING TO ANY OF THE FOREGOING, INCLUDING PURCHASE ORDERS, THE INVOICES AND ANY AND ALL CLAIMS ARISING OUT OF ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR ENTERING INTO THIS LEASE

45. SEVERABILITY

Should any provision of this Lease or the application of such provisions be rendered or declared invalid by a court action or by reason or any existing or subsequently enacted legislation, the remaining parts of provisions of this Lease shall remain in full force and effect. Notwithstanding, the foregoing, in the event that the invalidation of a term or condition affects LESSEE'S operations or business by twenty percent (20%) or more, as provided in Paragraph 13B above, then LESSEE shall have the right to terminate this Lease, and upon termination, all of LESSEE'S obligations under the Lease shall cease with the exception of obligations under Paragraph 23.

46. ATTORNEY'S FEES

In the event of litigation between the parties, the prevailing party shall be entitled to recover all costs of collection, including a reasonable attorney's fees and court costs. The provisions of this paragraph shall survive termination of this Contract.

47. NO WAIVER OF SOVEREIGN IMMUNITY

Nothing contained in this Contract is intended to serve as a waiver of sovereign immunity by CITY.

48. ENTIRE AGREEMENT

This Lease consists of the following: Paragraphs 1 through 50 inclusive, and Exhibits “1” through “7.”

It constitutes the entire agreement of the parties on the subject matter hereof and many not be changed, modified, discharged or extended except by written instrument duly executed by CITY and LESSEE. LESSEE agrees that no representatives or warranties shall be binding upon CITY unless expressed in writing in this Lease.

49. SURVIVAL OF TERMS.

To the extent needed in order to enforce a term or condition of this Lease, such term or condition shall survive termination or Lease expiration, as the case may be.

50. COUNTERPARTS AND FACSIMILE SIGNATURES.

This Lease may be executed in counterparts and each signature, when assembled with all others, shall constitute a single building agreement. Additionally, facsimile signatures shall suffice as originals.

IN WITNESS WHEREOF, the parties have hereto have executed these presents as of the day and year first above written.

THIS SPACE LEFT BLANK INTENTIONALLY

“CITY”:

Witnesses:

CITY OF POMPANO BEACH

By: _____
REX HARDIN
MAYOR

By: _____
GREGORY P. HARRISON
CITY MANAGER

Attest:

ASCELETA HAMMOND, CITY CLERK

(SEAL)

Approved by:

MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me, by means of physical presence or online notarization, this _____ day of _____, 2022, by REX HARDIN as Mayor, by GREGORY P. HARRISON as City Manager, and ASCELETA HAMMOND as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY’S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

"LESSEE":

Witnesses:

Stewart Rocco
[Signature]

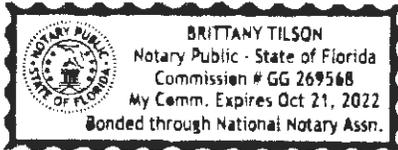
POMPANO AVIATION III, LLC

By: [Signature]
GREGORY L. SPATZ, Manager

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me, by means of physical presence or online notarization, this 28 day of December, 2022 by GREGORY L. SPATZ as Manager of Pompano Aviation III, LLC, a Florida limited liability company. on behalf of the company. He is personally known to me or who has produced Personally known (type of identification) as identification.

NOTARY'S SEAL:



[Signature]
NOTARY PUBLIC, STATE OF FLORIDA
Brittany Tilson
(Name of Acknowledger Typed, Printed or Stamped)
GG 269568
Commission Number

TAL:jmm
12/28/21
L:AGR/AIRPARK/POMPANO AVIATION III