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**GROUND LEASE AND OPERATING AGREEMENT DATED**

**MAY \_\_\_\_\_, 20\_\_**

**BY AND BETWEEN**

**THE AIRPORT AUTHORITY OF THE CITY OF GULF SHORES**

**AND**

**(INSERT NAME),,  
An Alabama Corporation**

**This Instrument Prepared By:**

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STATE OF ALABAMA }  
COUNTY OF BALDWIN }

**GROUND LEASE AND OPERATING AGREEMENT**

**WHEREAS**, this Agreement is made on \_\_\_\_\_, 20\_\_, by and between THE AIRPORT AUTHORITY OF THE CITY GULF SHORES, a public corporation and instrumentally under the laws of the State of Alabama, hereinafter referred to as the “AUTHORITY,” and \_\_\_\_\_, an Alabama corporation, hereinafter referred to as the “USER.”

**AND WHEREAS**, the City of Gulf Shores, Alabama, hereinafter referred to as the “CITY,” has leased Jack Edwards National Airport, hereinafter referred to as the “AIRPORT,” to the Authority under that certain Lease, Assignment and Operating Agreement, originally dated July 29, 1988, and recorded April 4, 1991, in Real Property Book 418, at Page 669, et seq., and subsequently amended and restated in that certain Amended and Restated Lease, Assignment, and Operating Agreement, dated July 1, 2008, and recorded July 3, 2008, as Instrument Number 1125068, all recorded in the office of the Judge of Probate of Baldwin County, Alabama, said lease agreement and amendment hereinafter referred to collectively and in their entirety as the “MASTER LEASE,” and both are hereby incorporated by reference herein as if set forth in full.

**AND WHEREAS**, to serve User’s customers and other aviation activity at and upon the Airport, the Authority has agreed to grant unto User the non-exclusive privilege and license to construct, operate and maintain a hangar facility on Airport property more particularly described in EXHIBIT A attached hereto, hereinafter referred to as the “LEASED AIRPORT PROPERTY,” to be used for the storage, repair and maintenance of aircraft, and other permitted uses at the Airport and upon said realty pursuant to all of the terms and conditions set forth herein.

**WHEREFORE**, in consideration of the premises and the mutual covenants and agreements hereinafter contained, the Authority and User mutually covenant and agree as follows, to-wit:

**ARTICLE 1**

**Section 1.01 - Definitions:**

The following words, terms or phrases, when used in this Agreement, have the following meanings, unless the context clearly indicates a different meaning, to-wit:

“Agreement” means this Lease Agreement as same may be hereafter modified, amended, or otherwise supplemented, by the Authority and the User pursuant to the provisions hereof.

“Aircraft” means any device now known or hereafter invented, used or designed for navigation of or flight in the air, except a parachute or other similar device designed for use as safety equipment, and shall specifically exclude and not mean any parts or components of an Aircraft.

“Airport” means the Jack Edwards National Airport in Gulf Shores, Alabama, and collectively all interests in real estate, improvements, fixtures, easements, and personal property which now or hereafter comprise the same or is otherwise situated upon or about the same.

“Airport Property” shall mean the same as “Airport” and shall specifically include, without limitation, to all of the real estate described in that certain Quitclaim Deed, as defined and cited herein below, together with all buildings, structures, facilities, fixtures, runways, paved areas, parking areas and other improvements and structures now or hereafter located or constructed upon or about the said real estate, and all chattels, equipment, machinery, facilities, and personal property, both tangible and intangible, used or otherwise useful in connection with any and all aeronautical activities conducted on or about the said real estate.

“Authority” means the Airport Authority of the City of Gulf Shores, and its successors and assigns.

“Capital Improvements” means all construction, modifications, extensions, additions, and other improvements to the Airport and to or upon the Airport Property which are properly chargeable to a fixed capital account by generally accepted accounting principles.

“Capital Maintenance and Repair” means all repairs, replacements, renewals, maintenance, rebuilding and refurbishing with respect to the Airport and any portions of the Airport Property which are properly chargeable to fixed capital account by generally accepted accounting principles.

“City” means the City of Gulf Shores, Alabama, in Baldwin County.

“Developable Condition” means the particular portion of the Airport Property to be developed must and shall be, in the reasonable determination of the Authority, cleared of all debris, improvements, and structures of any kind and the realty rendered ready for development.

“Enabling Law” means Section 4-3-1, et seq., Code of Alabama, 1975, as amended.

“Effective Date” means \_\_\_\_\_, 20\_\_ as specifically set forth herein below.

“Environmental Laws” shall mean and include any Governmental Requirement, including without limitation to storm water run-off, hazardous substances, and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERLA), as amended, 42 U.S.C. SECTIONS 9601, et seq., relating to pollution or protection of human health or the environment.

“Fuel” means gasoline, jet fuel, and all other liquid fuel or propellants used in Aircraft engines of any type or description.

“Force Majeure” means acts of God or the public enemy, labor disputes, civil disturbances.

“Governing Restrictions” means collectively (i) the Quitclaim Deed and all provisions thereof, (ii) the Master Lease and the provisions thereof, and (iii) the Regulations, as defined herein.

“Government Requirements” means all laws, rules, regulations, ordinances, judgments, codes, orders, decrees, injunctions, notices, requirements, and demand letters of any Government Authority directed or applicable to the Authority, the User, or the Airport, and shall include, without limitation, to the foregoing, and to all applicable non-discrimination laws, and the Regulations.

“Governmental Authority” means any federal, state, county, municipal, or other government authority, domestic, or foreign, and any agency, authority, department, commission, bureau, board, court or other instrumentality thereof, and specifically includes, without limitation, the Federal Aviation Administration (FAA), the United States Environmental Protection Agency (EPA), the Alabama Department of Environmental Management (ADEM), the City of Gulf Shores, Alabama, and to any successor thereof.

“Gross Airport Income” and “Gross Revenues” means all income, revenues, proceeds, receipts, and value received, accruing or proceeding by or unto User from and on the Leased Airport Property, including without limitation, to the value of any property received in exchange for such services.

“Hangar” means the structural steel frame building to be constructed on the Leased Airport Property, and measuring \_\_\_\_\_ in size.

“Hazardous Substances” means and shall include all pollutants, contaminants, toxic or hazardous wastes and other substances, including, but not limited to, asbestos, urea formaldehyde foam insulation and materials containing either petroleum or any of the substances referenced in Section 101 (14 ) of CERCLA, the removal of which is required or the manufacture, use, maintenance and handling of which is regulated, restricted, prohibited or penalized by any applicable Environmental Law, or even though not so regulated, restricted, prohibited, or penalized, might or otherwise could possibly pose a hazard to the health and safety of the public or the occupants of the property on which it is located or the occupants of the property adjacent thereto.

“Insurance Consultant” means an insurance consultant or an insurance consulting firm regularly engaged in the business of insurance consulting and not employed full time by the User, selected by the Authority with the concurrence of the User.

“Lease” shall mean the same as the “Master Lease, and refers to that certain original Lease, Assignment and Operating Agreement, dated July 29, 1988, by and between the City and the Authority, and recorded April 4, 1991, in Real Property Book 418, at Page 669, et seq., and amended and restated in instrument dated July 1, 2008, and recorded July 3, 2008, as Instrument Number 1125068, all recorded in the Office of the Judge of Probate of Baldwin County, Alabama.

“Leased Airport Property” or “Leased Airport Realty” means collectively the real estate listed in EXHIBIT A attached hereto.

“Minimum Standards” means collectively all regulations, restrictions and minimum operating standards promulgated by the Authority as same may be hereafter amended from time to time.

“Quitclaim Deed” means collectively that certain deed dated November 23, 1977, executed by the United States of America, acting by through the Administrator of General Services, and delivered to the Department of Aeronautics of the State of Alabama, recorded December 7, 1977, in Deed Book 528 N.S., Page 381, et seq., and transferred by said Department of Aeronautics, to the City by quitclaim deed dated October 17, 1983, and recorded in Real Property Book 159, Page 517, et seq., all recorded in the office of the Judge of Probate of Baldwin County, Alabama.

“Regulations” shall mean the Minimum Standards, Governmental Regulations, and all other rules and regulations promulgated and adopted by the Authority with respect to the Airport, as the same may hereafter be modified, amended and supplemented from time to time.

“Rent” means collectively the amounts payable as set forth in Article 3 herein below.

“State” means the State of Alabama.

“Term” means the duration period of this Agreement, which shall be \_\_\_\_\_ from the effective date hereof as defined and set forth herein.

“User” means \_\_\_\_\_, an Alabama corporation, and its successors and assigns.

### **Section 1.02 - Representation by the User:**

The User hereby represents and warrants to the Authority the following, to-wit:

A. User is a business entity duly organized under the laws of the State, currently qualified to do business in the State, and User is not in violation of any provisions of its documents of organization and operation, or the laws of the State.

B. User has the power to enter into this Agreement, and by proper action, has duly authorized the execution and delivery of this Agreement.

C. This Agreement is necessary to promote and further the economic interest of the User, and User certifies the execution hereof by User and the assumption of all liabilities and obligations hereunder will result in direct financial and other benefits to the User.

**Section 1.03 - Relationship of Parties:**

A. The execution of this Agreement, the performance and observance of the terms hereof, the extension of credit by the Authority to the User, and any other act or forbearance done or taken in connection herewith, shall not operate or be construed in any way to form a partnership or a joint venture between the Authority and the User or to constitute the User as an agent of the Authority or establish any agency or other similar relationship between the Authority, the User, and the City.

B. This Agreement is made by the Authority under and pursuant to the provisions of the Enabling Law and is subject to all of the terms and provisions thereof.

**Section 1.04 - Limitation of Liability of the Authority:**

A. The Authority shall not by virtue of this Agreement or the exercise of its rights or performance of duties under the Lease or this Agreement assume any duty or obligation that would make the Authority directly, indirectly, or otherwise derivatively liable for the negligent or reckless conduct or willful misconduct of User or any other person or entity.

B. The User, in the conduct of its business and the exercise of its rights and performance of its duties hereunder, is and shall be deemed and considered an independent contractor and shall not act or be considered in any way an agent of the Authority or the City, and the selection, retention, assignment, direction and payment of the employees, agents, and representatives of the User shall be the sole responsibility and function of the User.

**ARTICLE 2**

**Section 2.01 - Demise of Specific Airport Property to User:**

The Authority, for and in consideration of the rents, covenants, agreements and warranties hereinafter reserved, represented and contained on the part of User to be paid, kept and performed, does hereby demise and lease to User, and User does hereby accept, lease, take, and hire from the Authority, the real property described in EXHIBIT A attached hereto, and all rights and easements appurtenant thereto, hereinafter referred to as the “LEASED AIRPORT PROPERTY.”

**Section 2.02 - Obligations of the Authority:**

A. The Authority will use its best efforts to keep the Airport open and operating in a safe and orderly manner, and in further assurance of same, the Authority expressly reserves the right to operate, develop and improve the Airport and all Airport Property in any manner as the Authority deems necessary and prudent or to further the best interest of the Airport and to comply with any Governmental Regulation or other applicable rule, covenant, or statute, all without any interference or hindrance by or on behalf of User.

B. User acknowledges and agrees the Authority makes no warranty of any kind, character, or nature, either express or implied, nor offers any assurances in any way that the Leased Airport Property will be suitable for the User's intended purpose or needs.

### **Section 2.03 - Grant of Non-Exclusive Easement and Rights:**

A. The Authority hereby grants unto the User the privilege and license to construct, operate and maintain a Hangar facility and other permitted uses upon the Leased Airport Property, subject to all applicable Governing Restrictions and Minimum Standards.

B. In common with others so authorized, the Authority does hereby GRANT, BARGAIN, and CONVEY unto the User, subject to the terms of this Agreement, a non-exclusive easement of free and unrestricted ingress to and egress from the Airport and about the Airport Property, together with the non-exclusive and shared use of all Airport facilities and operational improvements of a public nature which are now or may hereafter be connected with or appurtenant to the Airport, including, without limitation, the use of landing areas, navigational aids, runways, taxiways, Aircraft parking areas designated by the Authority, and use of the public parking areas and spaces.

C. User acknowledges all of the easements, rights, privileges, and licenses granted to User herein are non-exclusive and are made available to User on the same basis and to the same extent as all other users and tenants of the Airport or conducting other businesses or enterprises at or upon the Airport, and the Authority reserves and shall have the absolute right, in its sole discretion, to grant to other persons or entities certain rights, privileges, and licenses upon or with respect to the Airport which are similar in part or in whole to those granted to User.

D. User covenants and agrees this Agreement and each term, condition and provision hereof shall not operate or be constructed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act 1958, as amended, and all applicable regulations and advisory circulars pertaining thereto, for the provision of any service or the conduct of any activity or the exercise or enjoyment of any right, privilege, or power that may be so provided, conducted, exercised or enjoyed pursuant to this Agreement.

**Section 2.04 - Permitted Uses and Activities:**

A. The Authority hereby grants unto User a license to operate a facility to \_\_\_\_\_, \_\_\_\_\_, automobile parking, business offices, and any other activity or endeavor approved in writing by the Authority.

B. User expressly acknowledges certain activities are and shall be strictly prohibited by the Authority, including, but not limited to, those set forth in the Minimum Standards and the sale and storage of Fuel as defined herein above in or about the Leased Airport Property.

**ARTICLE 3**

**Section 3.01 - Duration of this Agreement:**

The Term of this Agreement, as used herein, shall be for one period of \_\_\_\_\_ YEARS, beginning on \_\_\_\_\_, 20\_\_, which date shall also be known as the “ANNIVERSARY DATE” of this Agreement for purposes of renewal, and this Agreement and all of User’s rights and privileges hereunder shall expire at 11:59 P.M. on \_\_\_\_\_.

**Section 3.02 - Rent Requirements and Provisions:**

User does hereby covenant and agree to timely pay to the Authority for the use and occupancy of the Leased Airport Property and the non-exclusive privileges and licenses granted herein, a sum to include the monthly rent and percent of Gross Airport Income as set forth herein below, received at or from the Leased Airport Property, all hereinafter combined and referred to collectively as “RENT,” and payable as follows, to-wit:

A. An annual sum equal to \$0.24 per square foot of the total Leased Airport Property, initially totaling \$\_\_\_\_\_, payable monthly in advance and in the amounts and manner as set forth herein, together with and including Gross Airport Income Percentage Fees, as said term is defined herein above, received from the conduct of activities and the provision of services at or on the Leased Airport Property for the then immediately preceding calendar month.

B. Said Rent shall be payable monthly in advance in the initial minimum amount of \$\_\_\_\_\_ per month, beginning with the first payment due and payable on \_\_\_\_\_, 20\_\_, and continuing on the same said day of each consecutive month thereafter, subject to any future increases or other adjustments as set forth herein.

C. In addition to the said monthly payment referenced in Item B herein above, User shall also remit Gross Airport Income Percentage Fees, beginning with the first such payment due and payable on or before the Twentieth (20th) day of the second month of the Term, and continuing on or before the same said day of each consecutive month thereafter, subject to any future increases or other adjustments as set forth herein.



D. Beginning with the \_\_\_\_ 1, 2020 payment, the annual Rent shall be adjusted and increased as provided herein, and User shall thereafter pay the new increased annual sum, payable monthly in advance, and continuing on the same day of each consecutive month thereafter, subject to any future increases or other adjustments as set forth herein.

E. Gross Revenues, as such term is defined herein above, shall be determined by the Gross Airport Income derived from the conduct of activities authorized hereunder, at, in, or upon the Leased Airport Property, for the then immediately preceding calendar month.

### **Section 3.03 - Adjustment of Rent and Other Provisions:**

A. All said rent shall be adjusted every FIVE (5) YEARS, beginning on \_\_\_\_ 1, 2020, and on \_\_\_\_ 1 of each consecutive FIVE (5) YEAR period thereafter.

B. The Rent adjustment shall be an amount equal to the greater of the following, to wit:

1. The amount obtained by multiplying the monthly rent set forth in Section 3.02 (B) above by a fraction, the numerator of which shall be the annual Consumer Price Index (CPI) as hereinafter defined, published for the year most recently preceding said \_\_\_\_ 1 date, and the denominator of which shall be the annual CPI published for 2014, hereinafter referred to as User's base year, or,
2. The amount obtained by multiplication of the Rent payable per year for the then immediately preceding Five (5) year rental period by a rate of 3.0% compounded annually.
3. PROVISIO: The Authority agrees to use and apply only the CPI increase for calculating the first Rent adjustment at the end of the first Five (5) year period.

C. The term "Consumer Price Index" (CPI), as used herein, shall mean

1. The Consumer Price Index for all Urban Consumers and all items for the U. S. City Average as published by the Bureau of Labor Statistics of the United States Department of Labor, 1982-84=100 reference base.
2. In the event the base year is changed, the CPI shall be converted to the equivalent of the base year 1982-84 = 100.
3. If no such CPI is published, then such other index or standard as the Authority and User may agree upon, or if such agreement is not reached within ninety (90) days after publication of the CPI has ceased, such index or standard as shall be determined by arbitration in accordance with the rules of the American Arbitration Association.

### **Section 3.04 - Indemnity of Authority:**

The User agrees to pay, and to indemnify, save and hold the Authority and all of its directors, officers, employees, agents and representatives thereof harmless from and against any and all liabilities, losses, damages, claims or actions of any kind, character, or nature whatsoever incurred by the Authority, including, but not limited to, reasonable attorney's fees and expenses, without gross negligence on its part arising from or in connection with the following, to-wit:

A. Any act or event occurring upon or affecting any part of the Airport directly or indirectly resulting from, attributable to, or arising out of any act or failure to act of the User or its employees, agents and representatives.

B. Any damage, injury, loss or destruction of the Leased Airport Property, or any injury to, or the death of, any person or any damage to property at or upon the Leased Airport Property, or in any manner growing out of or connected with the use, non-use, condition or occupation or operation of the Leased Airport Property or any part thereof, or any other act or event occurring upon, or affecting, any part of the Leased Airport Property.

C. Any default by the User in the performance or observance of its obligations and covenants hereunder or any violation by the User of any Minimum Standard, Governmental Requirement or Governing Restriction affecting the Airport or any part thereof or the ownership, occupancy or use thereof or any other agreement, contract, covenant, or other restriction affecting the Airport or the use thereof of which the User has notice and which shall have existed at the commencement of the Term or which shall have been approved by the User.

### **Section 3.05 - Advances by Authority and Authority Contributions:**

In the event User fails to perform any of its covenants in this Agreement after having been given the notice and opportunity to correct such default as provided herein, the Authority may make advances to effect performance of any such covenant on behalf of the User, and all such amounts so advanced therefor by the Authority, including, without limitation, to Authority Contributions, together with interest thereon from the date of advancement at a per annum rate of interest equal to EIGHT PERCENT (8%), shall become an additional obligation of the User and payable by the User to the Authority upon demand.

**Section 3.06 - Obligations of User Unconditional:**

Subject to the terms and conditions hereof, the obligation of the User to pay Rent and all other payments due and owing hereunder and to perform and observe all agreements and covenants contained herein shall be absolute and unconditional, irrespective of any rights of set-off, recoupment, or counterclaim it might otherwise have against the Authority and without regard to the occurrence or non-occurrence of any event, circumstance or condition whatsoever.

**ARTICLE 4**

**Section 4.01 - General Operating Standards:**

A. User shall, at User's expense, promptly furnish courteous and efficient services, adequate to meet all of the usual demands for the aircraft storage and other services authorized hereunder at the Airport on a fair, equal, and not unjustly discriminatory prices for each unit of sale or service, consistent with the standard operations of other aircraft storage or hangar operations.

B User hereby covenants to the Authority that User shall, at User's own expense, keep the Leased Airport Property in a reasonably safe condition and will continuously provide for the efficient and economic administration, operation, management, and repair of all Leased Airport Property.

**Section 4.02 - Construction and Maintenance of Improvements:**

A. On or before [number] days from the effective date of this agreement, User must and shall first submit to the Authority for the Authority's approval all plans and specifications of the Hangar facility and other improvements User intends to construct upon the Leased Airport Property, and User shall not be permitted or authorized to begin the construction or placement of any such improvements until properly approved and authorized by the Authority.

B. All improvements constructed, erected or otherwise placed on, in or about the Leased Airport Property shall be done so in such manner and method as to comply with all Governmental Regulations and the Southern Building Code Congress International (SBCCI) building code standards, and all other rules, regulations and specifications of the Airport, Authority, City, FAA, and any other Governmental Authority having jurisdiction of the Leased Airport Property.

C. Upon obtaining the approval of the Authority and all other applicable Governmental Authorities, User shall begin construction of the Hangar and other approved improvements within six (6) months of obtaining such approval, and all said construction shall be completed within Eighteen (18) months of such approval, unless otherwise approved by the Authority in writing, and all such construction shall be in accordance with the plans and specifications as previously approved by the Authority and shall meet or exceed the SBCCI building code standards and all applicable regulations of the City.

D. User agrees the aforesaid time periods for the construction of the Hangar and other improvements upon the Leased Airport Property is critical to the orderly operation of the Airport and related aeronautical activities and endeavors, and User agrees time is of the essence with regards to the timely commencement and completion of said construction within said time periods.

E. In the event User fails to begin and complete construction of the said Hangar and all approved improvements to and upon the Leased Airport Property within said time period stated herein above, excepting only for acts of God, war or other event permitted by the Authority, without prior written approval of the Authority, User acknowledges that precise actual damages for such delay are impossible to determine, and User expressly agrees to the following penalties assessed by the Authority, in the Authority's sole discretion, as fixed liquidated damages, to-wit:

(i) A penalty of up to Twenty Percent (20%) of the project cost for failure to begin construction within said six (6) month time period.

(ii) A penalty of up to Fifty Percent (50%) for failure to complete construction within said eighteen (18) month time period.

(iii) A penalty of up to One Hundred Percent (100%) for failure to complete construction within TWENTY-FOUR (24) months from said approval.

F. No variance from or change to the Hangar and other improvements as originally approved shall be authorized or permitted without first obtaining the consent of the Authority, and if applicable, the City and any other Governmental Authority having jurisdiction thereof.

G. User shall throughout the term of this Agreement assume the entire responsibility, cost and expense, for all repair and maintenance on the Leased Airport Property and all improvements thereon in a good workmanlike manner, whether such repair or maintenance be ordinary or extraordinary, structural or otherwise.

H. In the event User fails: (a) to commence to maintain, clean, repair, replace, rebuild or repaint, within a period of thirty (30) days after written notice from the Authority to do any maintenance or repair work required to be done under the provisions of this Agreement, other than preventive maintenance, (b) or within a period of ninety (90) days if the said notice specifies that the work to be accomplished by the User involves preventive maintenance only; (c) or to diligently continue to completion any repairs, replacement, rebuilding, painting or repainting as required under this Agreement; then, the Authority may, at its option, and in addition to any other remedies which may be available to it, enter the Leased Airport Property involved, without such entering causing or constituting a cancellation of this Agreement or an interference with the possession of the Leased Airport Property, and repair, replace, rebuild or paint all or any part of the Leased Airport Property or the improvements thereon, and do all things reasonably necessary to accomplish the work required, and the cost and expense thereof shall be payable to the Authority by User on demand. Provided, however, if in the opinion of the Authority, the User's failure to perform any such maintenance endangers the safety of the public, the employees or property of the Authority or other tenants at the Airport, and the Authority so states same in its notice to User, the Authority may, at its sole option, in addition to all other remedies which may be available to it, elect to perform such maintenance at any time after the giving of such notice, and User agrees to pay to the Authority the cost and expense of such performance on demand. Furthermore, should the Authority, its officers, employees or agents undertake any work hereunder, User hereby waives any claim for damages,

consequential or otherwise, as a result therefrom except for claims for damages arising from the Authority's sole gross negligence. The foregoing shall in no way affect or alter the primary obligations of the User as set forth in this Agreement, and shall not impose or be construed to impose upon the Authority any obligations to maintain the Leased Airport Property, unless specifically stated otherwise herein.

I. User shall obtain all necessary and required building and other permits prior to initiating any alteration, repair, renovation or construction whatsoever related to any structure, equipment, or system situated on or about the Leased Airport Property, and upon completion of any such work, the User shall notify the City building inspector and the said inspector may inspect same.

J. User shall promptly pay, at User's expense, any and all charges related to the installation and use of all water, power and other utilities servicing said Hangar and improvements or otherwise applicable to the Leased Airport Property.

K. User may, at User's own expense and after first obtaining the prior written approval of the Authority, which approval may be withheld for any reason, make certain limited structural additions, alterations or replacements to the buildings and equipment located at, upon, or about the Leased Airport Property that User deems necessary or desirable, provided, however, such addition, alteration or improvement complies with all applicable Governmental Requirements and the SBCCI building code and other codes and regulations and does not adversely affect the utility of the Airport or the Leased Airport Property or otherwise impede its use or substantially reduce its value.

L. Prior to commencing any Capital Improvement to or Capital Maintenance and Repair of any of the Leased Airport Property, the User shall first obtain the prior written consent of the Authority and shall first provide the total expense of such improvement or repair and schedule of the payment of same, and the future cost and/or schedule of payment of the continued proper maintenance and repair of such improvement or repair.

M. All additions, alterations and replacements to the Leased Airport Property shall become a permanent and fixed part thereof and shall not be removed under any circumstances if such removal could possibly adversely affect the utility of the Airport or the Leased Airport Property or otherwise impede its use or substantially reduce its value or violate any applicable regulation or Governmental Requirement.

N. User agrees the Authority shall exercise all final decisions, based upon reasonable judgement, regarding the extent of the maintenance required to be accomplished for the applicable period to maintain all Airport facilities in a safe and satisfactory appearance and condition.

O. User's improvements erected or constructed upon the Leased Premises shall remain the property of the User for as long as this lease shall remain in effect, but such improvements shall become the property of the Authority upon expiration or termination of this lease, free and clear of all claims on the part of the User on account of any repair or improvement work done under the terms hereof by User. The vesting of title in the Authority at the time specified is a part of the consideration for this lease. The Authority shall not be liable to User or User's contractors or Sub-Lessee's for the value of any improvements constructed or located on the Leased Premises.

#### **Section 4.03 - Storm Water Requirements:**

A. The Airport and all Airport Property, including, but not limited to the Leased Airport Property, is subject to certain storm water discharge regulations promulgated by the FAA and other Governmental Authorities, and User shall promptly comply with any and all such rules, regulations and requirements thereof or otherwise related thereto.

B. User expressly covenants and agrees to assume and comply with the terms and conditions set forth in EXHIBIT C attached hereto related to such storm water discharge permits.

#### **Section 4.04 - Insurance Requirements:**

A. The Authority shall have the absolute right and authority, in the Authority's sole discretion, to require any and such policies of insurance and in such amounts and with such limits as the Authority may determine from time to time, including, but not limited to, any such policies of insurance or amounts or limits of coverage recommended by an Insurance Consultant.

B. A condition precedent to User's commencement of any activities at or upon the Airport shall be to first ascertain from the Authority all policies of insurance initially required by the Authority, and the User shall immediately thereafter purchase and continuously maintain in effect all such policies and in such amounts and with such limits as required by the Authority and timely remit payment of all premiums due therefor and submit copies of all issued policies thereof.

C. In addition to any other policies of insurance as may hereafter be required by the Authority, the User shall purchase and continuously maintain in effect all of the following insurance coverages with respect to the Leased Airport Property, to-wit:

1. Hazard Insurance: Hazard insurance to the extent required by the Authority, but in no event not less than the full insurable replacement value of all improvements situated on the Leased Airport Property against loss or damage by fire, wind, hurricane, theft, vandalism, malicious mischief and such other hazards, casualties, perils or contingencies as the Authority may require, and with uniform standard extended coverage endorsement limited only as may be provided in the standard form of extended coverage endorsement at the time in use in the State.

2. Flood Insurance: Flood insurance under the national flood insurance program, if available, in such amounts and with such limits as the Authority may require.

3. Liability Insurance: General and comprehensive liability insurance for damages to or loss of property and for bodily injury to or death of persons occurring on or about the Leased Airport Property or in any way related to the use, non-use, condition, occupation or operation of the Leased Airport Property or resulting from any incident on or about the Leased Airport Property, or caused by or arising out of any act or failure to act of User or its agents, employees or representatives on, at or about any part of the Airport or the Leased Airport Property, in the initial minimum amounts of not less than \$10,000,000.00 combined single limit for death of or bodily injury to any one person,

and \$10,000,000.00 for property damage, all on a per occurrence basis.

4. Use and Occupancy Insurance: Use and occupancy or “business interruption insurance” covering any suspension or interruption of the User’s operations upon the Airport in whole or in part by reason of damage to or destruction of the Airport or of any part thereof, with such exceptions as are customarily imposed by insurers, covering a period of suspension or interruption of at least Twelve (12) months with a minimum limit in an amount not less than 100% of the total amount of all Rent and other monies paid by the User, as such term is defined herein above, during the then immediately preceding calendar year.

5. Hangar Keepers Liability: User shall purchase and continuously maintain insurance coverage generally known as “hangar-keepers liability” in an amount and to the extent required by the Authority, but in no event not less than \$40,000,000.00, unless otherwise approved by the Authority in writing.

6. Other: Any such other insurance against liability for those matters covered under each covenant of indemnity by the User contained herein which are not otherwise included herein above and in such amounts and with such limits as the Authority may require from time to time, including, but not limited to, the following additional policies, to-wit:

(i) Builders Risk coverage in an amount and to the extent required by the Authority, but in no event not less than the full insurable replacement value of all improvements being constructed on or upon the Leased Airport Property, for as long as such construction, erection or placement of any improvements continues or until such time as regular hazard or other such insurance coverage as required herein becomes effective and proper coverage begins.

(ii) Workers Compensation coverage for any and all employees, independent contractors, agents or other workers not already properly covered by User’s existing or other insurance policies, in such amounts and to the extent required by the Authority, but in no event not less than such amounts as may be required under Alabama law.

(iii) Hazardous material or “pollution” insurance in such amounts and to the extent required by the Authority, the City, the FAA, the EPA, or other Governmental Authority having jurisdiction over the Leased Airport Property, but in no event not less than \$3,000,000.00.

D. All insurance coverage required by the Authority shall be maintained with insurance companies who are approved by the Authority and who are qualified under the laws of the State to assume the respective risks undertaken, except, however, any policy evidencing flood insurance coverage may be maintained with the United States of America or an agency thereof.

E. All policies of insurance required by the Authority to be provided by the User shall name the Authority as an additional named insured, as the Authority’s respective interest may appear.

F. All policies required by the Authority shall adequately provide the insurance provided thereby and shall provide that any losses payable thereunder shall be payable to the Authority.

G. No policy of insurance required by the Authority to be provided by the User will be accepted or permitted by the Authority if such policy could possibly be invalidated in any way by any act or negligence of the User, or by the commencement of any proceedings by or against the User in bankruptcy, insolvency, receivership, or any other proceeding for the relief of a debtor, or by any foreclosure, repossession or other proceeding relating to any of the property insured, or by any occupation or use of such property for any purpose more hazardous than permitted in the policy.

H. User shall furnish to the Authority a duplicate original of all insurance policies which are purchased and maintained by the User, and User shall cause and require each insurer under all such policies to agree to give the Authority at least Ten (10) business days' prior written notice of any material change, amendment, or cancellation of such policies in whole or in part or the lapse of any coverage thereunder.

I. Anything herein to the contrary notwithstanding, any proceeds of any insurance required by the Authority shall first be paid to the Authority to the extent of all amounts owed to the Authority thereunder, and the remainder of such proceeds, if any, shall be paid to the User.

J. User acknowledges the Authority reserves and shall have the right to require such other insurance and future increases in the amounts and limits of coverage as the Authority may reasonably determine or otherwise require in accordance with the recommendation of an Insurance Consultant.

## ARTICLE 5

### **Section 5.01 - Damage and Destruction to Leased Airport Property:**

A. User expressly assumes all risk of loss whatsoever, including, but not limited to, any decrease in the use, enjoyment or value, of the leasehold interest created hereby, and of User's personal property used or located at the Airport and not included in the Leased Airport Equipment.

B. User expressly assumes all risk of loss for all loss of rents, profits and income arising from or otherwise related to User's conduct of the authorized operations at or upon the Leased Airport Property, from any casualty whatsoever, whether or not insurable or insured against.

C. In the event of any damage to any portion of the Leased Airport Property, the User shall give the Authority immediate notice thereof, and except as may otherwise be provided herein, User shall, at User's own expense, promptly and properly repair and restore all such damaged portions of the Leased Airport Property back to a form of equal or greater value as that prior to the damage and take any such additional and other steps as shall be necessary to preserve any undamaged portion of the Leased Airport Property, and User shall not be entitled to any abatement of any Rent due and owing hereunder during the period of such repairs.

D. Prior to the commencement of any repair of any damaged building or improvement or the construction of any replacement therefor upon the Leased Airport Property, the User shall first obtain the written consent of the Authority, which consent may not be unreasonably withheld, and if User's plans for repair or the construction of a new building or improvement differ materially from the building or improvement so damaged or destroyed, the Authority shall have the absolute right to



disapprove such plans.

E. In the event any portion of the Leased Airport Property or any building or improvement thereon is totally or partially damaged, destroyed, lost, or taken through no fault of User, or if applicable zoning or other use restrictions prohibit or render impractical the proper repair, restoration or replacement of such damaged or destroyed Leased Airport Property or the continued operation of same, the Authority and the User shall each have the option, exercisable by giving written notice thereof to the other within Sixty (60) days after the occurrence of the damage or taking to terminate this Agreement and be thereafter completely relieved of any further obligations hereunder, except for those provisions hereof which, by its terms, expressly survive any such termination.

F. **PROVISO:** In the event any portion of the Leased Airport Property is destroyed or otherwise rendered unusable because of the fault or negligence of User, User hereby covenants to the Authority to repair and restore the Leased Airport Property back to a form of equal or greater value as that prior to the damage as soon as practicable thereafter, at User's sole cost and expense, and User expressly agrees such covenant of restoration shall not merge and shall survive any termination hereof and shall remain in effect and fully enforceable against the User.

G. If any portion of the Leased Airport Property or any building or improvement situated thereon is damaged or destroyed or if same be lost or taken by condemnation or other exercise of eminent domain, and such building or improvement cannot be reasonably repaired, rebuilt or restored back to its original form, the Authority shall not have any obligation whatsoever to repair, rebuild or replace any portion of such damaged or taken property, building or improvement.

#### **Section 5.02 - Condemnation of Leased Airport Property:**

A. User shall consult and cooperate with the Authority in the continuation and defense of any proceedings for the condemnation of the Airport or the Leased Airport Property or any part thereof or of the exercise of any right of eminent domain with respect thereof, and no settlement of any such proceedings shall be made by the User without the Authority's prior written consent.

B. If the fee title to any portion of the Leased Airport Property is properly taken or condemned by a competent authority for any public or, quasi-public use or purpose, or if such part taken makes or renders the remainder of the Leased Airport Property unsuitable for the intended use thereof by User as it was used immediately preceding such condemnation, User, at User's election, shall have the right to terminate this Agreement as of the date upon which possession of the affected portion thereof passes to such condemning authority, and User shall thereafter have no further obligations hereunder, except for the covenants and provisions hereof which by their terms expressly survive such termination and shall remain in effect and fully enforceable against the User.

C. If only a part of the Leased Airport Property is taken or condemned, and the part not so taken can be restored so as to permit User to continue the use of the remainder of the Leased Airport Property in substantially the same manner as immediately prior to such condemnation, this Agreement shall remain in full force and effect, subject to the provision that the Rent shall be equitably abated according to the value of that portion of the Leased Airport Property so condemned or taken, commencing on the date possession of the affected portion of the Leased

Airport Property passes to such condemning authority

D. In the event of an abatement of the rent, such abatement shall continue for each succeeding year or portion thereof in the same proportion until the condemned or taken property is replaced or restored by User; however, User expressly acknowledges User shall not be entitled to any portion of any monetary award or other proceeds paid to the Authority for any such condemnation or other taking.

E. Notwithstanding anything contained herein to the contrary, User agrees User shall be responsible for the continued maintenance and repair of all Leased Airport Property and all improvements thereon at User's sole expense, and User shall maintain proper insurance on same to protect the interest of User and the Authority, and in the event of any damage, destruction, or taking of any portion of the Leased Airport Property, User shall not have any claim whatsoever against the Authority or to any monetary proceeds or other compensation paid to the Authority for any such damage, destruction or taking for any reason.

F. Nothing contained herein or any other related document shall prohibit or otherwise restrict User's right to purchase and maintain, at User's sole expense, a separate policy of insurance to protect User and all of User's interest in the Leased Airport Property.

## **ARTICLE 6**

### **Section 6.01 - Assignment, Mortgages, and Other Transfers:**

The User may, with the prior written consent of the Authority as set forth herein, said consent being a condition precedent, assign, mortgage, and sub-let this Agreement and the leasehold interest and other rights and privileges created hereby, subject to limitations and provisions of Section 6.02 herein below.

### **Section 6.02 - Requirements for Assignment, Mortgage, and Sub-Lease:**

Any assignment, mortgage, sub-lease, or other transfer approved and permitted by the Authority hereunder shall be subject to the following requirements and conditions, to-wit:

A. User shall promptly furnish to the Authority, a true and complete executed copy of each approved assignment, mortgage, sublease, or instrument or evidence of such transfer or conveyance.

B. The proposed assignment, mortgage, sub-lease, or other transfer, and the proposed assignee, mortgagee, sub-lessee, or other transferee shall all meet all requirements of all Governmental Restrictions, Regulations, and the reasonable qualifications of the Authority regarding financial condition, fitness, competence, and experience.

C. Any assignee, mortgagee, sub-lessee, or other transferee of User shall assume and agree in writing to perform and assume all terms, conditions, obligations, and liabilities of User under this Agreement, including without limitation, the obligations of the User to comply with all Governing Restrictions, the Lease, and all Rules and Regulations applicable to the Airport.

D. User acknowledges and agrees the prior written consent and approval of the Authority to any assignment, mortgage, sub-lease, or other transfer of any interest, right, license, permit or privilege granted hereunder shall be a condition precedent to same.

E. User acknowledges and agrees the Authority shall not be required to grant consent to any such assignment, mortgage, sub-lease, or other transfer whatsoever, and the Authority may withhold such consent for any reason.

F. Any assignment, mortgage, sub-lease, or other transfer authorized by the Authority shall be expressly subject to and shall fully comply with all of the terms, conditions and provisions hereof and all terms, conditions, and provisions of the Governing Restrictions, the Lease, and the Airport.

### **Section 6.03 - Consolidation, Merger or Transfer of Airport Assets by Authority:**

A. If properly authorized by law, the Authority shall have the right to transfer the Airport to the City, or merge or consolidate with, or transfer the Airport to, any other public corporation whose property and income and interest payments are not subject to taxation and which has corporate authority to carry on the business of owning and leasing the Airport.

B. In the event of such proper transfer, upon any such consolidation, merger or transfer, the due and punctual performance and observance of all the agreements, covenants, conditions, and provisions of this Agreement to be kept and performed by the Authority shall be expressly assumed in writing by the City or such other transferee public corporation.

## **ARTICLE 7**

### **Section 7.01 - General Covenants of the Authority:**

A. User shall peaceably and quietly have, hold and enjoy the Leased Airport Property during each Term of this Agreement, subject to all the terms and provisions hereof, provided User performs and observes all covenants, provisions and obligations of User contained herein.

B. Provided the User is not in default of any term or condition of this Agreement, the Authority will not, at any location upon the Airport, directly engage in or operate any activities, or provide any services, of the same type required or permitted on the part of the User hereunder at the Airport in direct competition with the User, unless the Authority determines, in the Authority's discretion, such direct competition is or would be in the best interest and welfare of the flying public and the community of Gulf Shores and the furtherance of the corporate purposes of the Authority.

C. PROVISOR: Notwithstanding anything else contained herein or elsewhere to the contrary, the Authority does hereby certify and User does hereby acknowledge and agree nothing contained elsewhere in this Agreement does not and shall not operate or be construed in any way to grant the User any exclusive rights or privileges at or upon the Airport under any definition.

D. The Authority shall maintain all public and common or joint use areas of the Airport in good repair, and shall make such repairs, replacements or additions thereto as, in its sole opinion, are

required and necessary for the safe and efficient operation of the Airport.

E. The Authority will comply with all applicable state and federal laws regarding privacy and confidentiality of information, and the Authority will not unreasonably withhold any notices, consents, approvals or other responses hereunder and will properly notify User as required herein.

F. The Authority acknowledges the User is entering into this Agreement in reliance upon the Regulations in force and effect on the date of delivery hereof, and as such, the Authority agrees any amendments of or supplements to the Regulations adopted after the date of delivery of this Agreement shall be made in good faith pursuant to a requirement of law or regulation of a Governmental Authority or is reasonably necessary to the safe and efficient operation of the Airport.

### **Section 7.02 - Special Rights of the Authority:**

A. During any time of war or national, state, or other emergency, the Authority shall have the right to lease the Airport, the Leased Airport Property, or any part thereof, to the United States of America, the State of Alabama, or any branch or agency thereof for any such military, emergency, or other governmental use.

B. In the event the Authority enters into any such written lease, the provisions of this Agreement insofar as they are inconsistent with any term or provision of any such lease duly executed, shall be abated and User's obligations for same shall be suspended, provided, however, the Authority shall have the right to collect any insurance proceeds pursuant to the terms hereof.

C. The Authority does hereby reserve and shall at all times have the right, privilege, and authority to make any such Capital Improvements with respect to the Airport and related facilities, including, without limitation, the repair, improvement or development of the landing areas, taxiways, aprons, and all other facilities located at the Airport and the protection of the instrument landing system and other aerial approaches to the Airport, as the Authority, in its sole discretion, shall deem necessary or desirable or as may be required by any Governmental Authority, and the User shall fully cooperate with the Authority in the exercise of the foregoing rights.

D. The Authority shall be permitted, without limitation, such possession of the Airport and the Leased Airport Property as shall be necessary and convenient for the Authority to construct, erect, or install any Capital Improvement and to make any repairs or restoration required or permitted to be constructed, installed or made by the Authority as the Authority may require from time to time pursuant to the provisions of this Agreement and the Governing Restrictions.

E. Any Capital Improvements constructed pursuant to this Section shall be subject to the maintenance requirements and limitations set forth herein.

F. The Authority shall have all powers and authority necessary to require or otherwise ensure the User shall, at all times, perform and observe all provisions of the Governing Restrictions that are to be performed and observed by the User.

G. User specifically acknowledges and agrees the Authority reserves and shall have at all times all rights, privileges and authority to take or cause to be taken any and all such actions as the Authority shall consider necessary or desirable to effect and ensure the full and complete performance and observance of, and compliance with, all provisions of any Governing Restriction or applicable Governmental Requirement.

H. In the event of any breach of any of User's covenants contained herein, the Authority shall have the right to terminate this Agreement and to re-enter and take possession of the Leased Airport Property and hold same as if this Agreement had never been made or issued, subject to the exercise or expiration of any appeal rights afforded to User by applicable State and federal law.

### **Section 7.03 - Covenants of the User:**

A. User shall promptly furnish to the Authority any financial data or other information as may reasonably be requested by the Authority, and the Authority will maintain in strict confidence all information in its possession as a result of such examination to the full extent of applicable law.

B. User shall maintain proper, complete and correct books of all financial accounts, in which full and correct entries will be made, in accordance with generally accepted accounting principles, of all of the income, revenues, business affairs, and other financial transactions regarding User and User's entities with respect to any and all authorized business conducted by User and User's entities at or upon the Leased Airport Property, including, but not limited to, sufficient and complete records of all Rent received and Gross Airport Income.

C. User shall permit the Authority or a duly licensed public accountant or firm of duly licensed public accountants designated by the Authority to have complete and total access to, inspect, examine and make copies of any and all financial records, accounts, and other data of the User and any of User's entities which relate to the Airport and this Agreement at all reasonable times, and the Authority will maintain in strict confidence all such information in its possession as a result of such examination to the full extent of applicable law.

D. User shall permit the Authority and its duly appointed agents to examine confidential information relating to any employee of the User and any of User's entities which relate to the Airport and this Agreement at all reasonable times, the purpose of which is to determine the general overall safety, security, and successful operation and management of the Airport and the adequate performance of the User's obligations hereunder, and the Authority will maintain in strict confidence all information in its possession as a result of such examination to the full extent of applicable law.

E. User shall maintain and promptly furnish to the Authority upon request valid and proper financial statements prepared by an independent certified public accountant, including a balance sheet and a statement of revenues and expense of the operations of the User and User's entities which relate to the Airport and this Agreement for each fiscal year and statements in comparative form for the preceding fiscal year, and the Authority will maintain in strict confidence all information in its possession as a result of such examination to the full extent of applicable law.

F. User will promptly notify the Authority in writing of all defaults, litigation or any adverse condition, fact, circumstance or change which could have a material adverse effect on the ability of the User or User's entities to perform any of their obligations under this Agreement or on the operations of the User or User's entities at or upon the Leased Airport Property.

G. User shall maintain and preserve its legal existence and organizational structure as originally approved by and relied upon by the Authority, and User shall not dissolve, or consolidate into or merge with any other corporation or other entity without first discharging all of its obligations under this Agreement.

H. User shall not in any manner transfer or convey any of its property, assets or licenses or any property, assets or licenses of any of User's entities which relate to the Airport and this Agreement without the prior written consent of the Authority and the demonstration to the Authority, to the satisfaction of the Authority, the User will still have an excess of assets over liabilities at least at great as the User would have had if such transfer or conveyance had not been made.

I. User shall not sell, assign, lease, exchange, dispose of, or otherwise transfer in any form or nature any of the Leased Airport Property, or any interest therein, or contract with any person or entity for any of the foregoing, except as may otherwise be permitted herein, without the Authority's prior written consent, which consent may be withheld for any reason.

J. User expressly acknowledges and agrees the Authority's consent to the terms of this Agreement are based in part on the representations and current financial and organizational structure of User; therefore, User covenants User shall not sell, pledge, assign, encumber, contract to sell, or otherwise transfer any of the ownership interest of or in User or User's entities or any equity interest in User or User's entities of any kind, character, or nature, or any other transaction whereby the legal or beneficial ownership of the User is changed in any way, including the sale of additional stock or other equity interests, the liquidation or dissolution of the User, or the merger or consolidation of the User with any other person, in violation of the provisions hereof, shall be treated and mean the same as a transfer of the Leased Airport Property as set forth and defined herein.

K. User shall not discriminate against any person or otherwise exclude any person, for any reason, from participation in, or deny such person the benefits of, or otherwise subject such person to any form of discrimination in or the use of the Airport or the Leased Airport Property on the grounds of race, color, religion, sex, or national origin.

L. User shall not exclude any person from the construction of any improvements on, over, under, about, or with respect to any portion of the Leased Airport Property or the furnishing of services therein or thereon, or from participation therein, or denied the benefits thereof, or otherwise subjected to discrimination in connection therewith, on the grounds of race, color, religion, sex, or national origin.

M. User shall only use the Airport and the Leased Airport Property in strict compliance with all State and federal laws, statutes, and requirements, including, but not limited to, all Government Requirements, and all nondiscrimination statutes and provisions which may be imposed by Title 49, Code of Federal Regulations, as amended.

N. User shall permit the Authority and its authorized agents, at the expense of the Authority, to enter upon, examine, inspect, repair, maintain, and improve all utilities, buildings, facilities, and other improvements located at, upon, about, or adjacent to the Leased Airport Property.

O. User shall, upon request of the Authority, grant such utility and other easements over, across or under the Leased Airport Property as may be necessary or convenient for the furnishing of utility and other similar services to the Airport or the Leased Airport Property or to any real property adjacent to or near the Leased Airport Property, provided, however, such easements will not adversely affect the operation of any of the facilities forming the Leased Airport Property.

P. User shall promptly acquire and maintain all requisite material certificates, licenses, authorizations, regulations, permits and other approvals necessary for the proper operation of the Leased Airport Property and the conduct of the User's business at the Airport and required by every Governmental Authority having jurisdiction thereof, including, but not limited to, all applicable zoning, building, land use, environmental, occupancy, fire and other approvals.

Q. User shall comply with and make all payments required hereunder and under all Governmental Requirements and Restrictions now or hereafter affecting the Leased Airport Property and the Airport or any part thereof or the business or activity conducted or to be conducted thereon by the User or User's entities with respect to an aircraft storage and hangar facility.

R. User shall comply with all applicable Regulations and Governmental Requirements, and the User shall not do, conduct, commit, suffer, permit or allow any act to be done or conducted in, upon, or about the Leased Airport Property in violation of the Regulations or any applicable Governmental Requirements or that could possibly constitute a public or private nuisance or that could possibly affect, impair, contravene, make void or voidable, or cancel any policies of insurance carried with respect to the Airport, the Leased Airport Property, and any operations of User thereon.

S. User shall do or perform, or cause to be done or performed, any act, or shall refrain from doing any such act or taking any action, as the Authority, in the exercise of its sole discretion and good faith, shall at any time require of the User as the Authority, in the Authority's sole discretion, deems necessary or desirable to promote the general public interest and welfare and the proper development of general and commercial aviation at the Airport, the intent and purpose being the public interest of the Gulf Shores community requires sufficient growth and development of the Airport and air transportation at the Airport, and the Authority is lawfully charged with the promotion, management and development of same, and User has been granted certain nonexclusive privileges at the Airport under this Agreement and has undertaken the responsibility to conduct certain limited activities and perform limited services which further such public interest.

T. User shall not permit any lien of any kind, character, or nature to be filed or otherwise exist upon against the Leased Airport Property, or any part thereof, which is in favor of any Governmental Authority or other person under any Governmental Requirement.

U. User shall fully cooperate with the Authority to obtain financial assistance for the Airport from the appropriate Governmental Authorities and will execute such amendments to this Agreement as shall be reasonably required as a condition precedent to the expenditure of any federal or State funds for the development or operation of the Airport.

V. User shall pay, as the same respectively become due, all taxes, charges and assessments of any Governmental Authority which may at any time be lawfully assessed or levied against or with respect to the Leased Airport Property.

W. User specifically acknowledges and agrees all expressed covenants and indemnifications contained in this Section and elsewhere in this Agreement shall specifically survive the termination, satisfaction, and release, in whole or in part, of this Agreement and shall remain in full force and effect against the User and User's entities, and the Authority shall have all remedies available at law and equity with respect to any and all claims and losses asserted against or incurred by the Authority either before or after the commencement of any action or proceeding which relates in any way to any such expressed covenant, event, or occurrence.

#### **Section 7.04 - Hazardous Substances:**

A. User shall not permit any person or entity to bring any Hazardous Substances onto any part of the Leased Airport Property, except such Hazardous Substances used in the ordinary course of the contemplated business to be conducted by User upon the Leased Airport Property and that are handled, stored, used and disposed of in accordance with applicable Environmental Laws.

B. User shall cause and shall be strictly responsible and liable to ensure the Leased Airport Property and all operations of User conducted thereon, including all operations conducted by User's related entities and other persons, are in strict compliance with all Government Restrictions and all Environmental laws and related statutes promulgated or imposed by the EPA, the FAA, the Authority, the City or any other Governmental Authority.

C. User shall promptly undertake all preventive, investigatory, and remedial action required by the Authority, the City, or any Governmental Authority or entity having jurisdiction thereof or the EPA or any applicable Environmental Law which may be necessary to prevent or minimize any property damage to the Airport or any of the Leased Airport Property, or personal injury, or harm to the environment, or the threat of any such damage or injury by the release of or exposure to Hazardous Substances in connection with or related to the operations of the User or User's entities at or upon the Airport or the Leased Airport Property, including, but not limited to, any and all emergency response, removal, clean up, containment and other remedial action.



D. User shall immediately remove and properly dispose of any unapproved Hazardous Substances brought to or otherwise found upon the Leased Airport Property, and any such removal shall be conducted in strict compliance and in accordance with all applicable Environmental Laws.

E. User shall give immediate written notice to the Authority of the following, to-wit: (i) if the User should become aware of or otherwise suspects any spill, release or disposal of any Hazardous Substances, or the possible imminent threat thereof, at the Airport or the Leased Airport Property, in connection with the operations of User or User's entities at or upon the Leased Airport Property or any adjacent property which could possibly migrate to, through, around, or under the Leased Airport Property, and (ii) any material violation of Environmental Laws regarding the Leased Airport Property or any operations thereon, notwithstanding whether the violator is the User, an entity of User, or other party, and (iii) any material investigation, claim or threatened claim under any Environmental Law, or any notice of violation under any Environmental Law, involving the User, an entity of User, or the Leased Airport Property.

F. User shall, upon written notice by the Authority, promptly defend, indemnify, save and hold the Authority harmless from and against any and all liabilities, claims, causes of action, judgments, damages, fines, penalties, response costs and other losses, costs and expense of any kind, character, or nature whatsoever, including, but not limited to, reasonable attorney's fees and all costs of investigation and litigation, asserted against or incurred by the Authority which are related to or arise out of or result from the following, to-wit:

1. Any violation or non-compliance of the Leased Airport Property with any applicable Environmental Law or other related statute, or

2. The presence of any Hazardous Substances on, about, under, or otherwise situated in or upon the Leased Airport Property during any of the time the User has any interest in the Leased Airport Property or is otherwise in possession of the Leased Airport Property whatsoever, or

3. Any investigation, clean up or removal of, or other remedial action or response costs with respect to, any Hazardous Substances located on, about, under, or otherwise included the Leased Airport Property or any part thereof, during the time the User or User has any interest in the Leased Airport Property or is otherwise in any form of possession thereof, which may be required by the EPA, the Authority, the City, or any other Governmental Authority or agency, or any applicable Environmental Law or statute, specifically including, and without any limitation to, any and all liabilities, damages, fines, penalties, assessments, response costs, investigatory or other costs and expenses pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U. S. C. Sections 9601, et seq., and any claims alleging non-compliance with any Environmental Laws or statutes which seek relief under or are based on state or common law theories such as trespass or nuisance.

G. User shall promptly deliver to the Authority, at the Authority's request, copies of any and all documents in the User's possession or to which the User has access relating to Hazardous Substances or Environmental Laws and the Leased Airport Property, and all of User's operations thereon and the operations of User's entities, including any laboratory analyses, site assessments or studies, environmental audit reports and other environmental studies and reports.

H. If the Authority at any time reasonably believes the User is not in full compliance with all applicable Environmental Laws or the requirements hereof regarding same, or that a material spill, release or disposal of Hazardous Substances has occurred on, under, or about the Leased Airport Property, the Authority shall have the right to require the User to furnish to the Authority an environmental audit or other site assessment reasonably satisfactory to the Authority with respect to the matters of concern to the Authority, and such audit or assessment shall be performed by a qualified consultant approved by the Authority and all costs thereof shall be paid the User.

I. User acknowledges and agrees the Authority shall have no liability whatsoever for any clean-up or other expense in connection with any Hazardous Substance contamination, and User shall indemnify the Authority from any loss of any kind or nature whatsoever, including a reasonable attorney's fee, resulting from the presence of any contamination.

J. User shall permit the Authority from time to time, at the Authority's request, to inspect all parts of the Leased Airport Property to observe the proper operations thereon.

K. User expressly and specifically acknowledges and agrees the provisions hereof and the indemnifications contained herein shall specifically survive the termination, satisfaction, and release, in whole or in part, of this Agreement and shall remain in full force and effect with respect to any and all claims and losses asserted against or incurred by the Authority either before or after the commencement of any action or proceeding with respect to any such event or occurrence.

#### **Section 7.05 - Governing Restrictions:**

A. The Authority reserves and shall have, at all times, all rights, privileges and authority to take or cause to be taken all such action as the Authority shall consider reasonably necessary or desirable to effect and ensure the full and complete performance and observance of, and compliance with, all provisions of any applicable Governing Restrictions or Governmental Requirement.

B. User acknowledges this Agreement is and shall always be subject and subordinate in all respects to the Governing Restrictions and any future additions thereto or modifications thereof.

C. User covenants and agrees to perform and observe all provisions of same and to do any and all things necessary to promote and effectuate the performance and observance of the Governing Restrictions and the full and free exercise of the rights thereunder by the City and the Authority by virtue of this Agreement.

### **ARTICLE 8**

#### **Section 8.01 - Events of Default:**

Default under this Agreement and the term "Event of Default" shall mean, whenever used in this Agreement, any one or more of the following events, to-wit:

A. Failure by the User to pay any amount or installment of Rent due and payable hereunder

by the terms hereof, and such failure to pay continues for a period of more than Five (5) days after written notice of such failure has been given by the Authority to the User, and User does hereby expressly acknowledge and agree the Authority shall have no obligation whatsoever to give any such notice to User more often than Twice during any Twelve (12) month period.

B. Failure by the User to pay any amount or installment of Rent due and payable hereunder by the terms hereof a Third (3<sup>rd</sup>) time during any Twelve (12) month period and continues unpaid for more than Five (5) days, notwithstanding whether notice of same has been given to User.

C. Failure by the User to observe and perform any terms, condition, covenant, or provision contained or expressed in this Agreement or cure any default of same after written notice has been given by the Authority or its agent to the User specifying the nature of such failure or other default and the time which User shall have to correct same.

D. The interest of the Authority or the City in the Leased Airport Property becomes endangered by reason of the enforcement of any lien or encumbrance thereon or for any other reason so as to endanger said Leased Airport Property or the Rent due and owing pursuant thereto.

E. The failure of the User to keep all said Leased Airport Property properly insured against loss or damage by fire, lightning tornado, hurricane, flood and other casualty, for the fair and reasonable insurable value thereof with insurance companies satisfactory to the Authority as required herein, or the failure of User to properly list the Authority as a named insured, or the failure to promptly deliver said policies, or any renewal thereof or any change thereto to the Authority.

F. Any representation or warranty made by the User or any certificate, financial statement, or other instrument furnished by the User related in any way to the approval of this Agreement by the Authority or otherwise pursuant or related in any way to any provision contained herein which proves to be false or misleading or otherwise not accurate in any material respect.

G. The filing of a petition in bankruptcy or other commencement of a similar insolvency proceeding by or against the User under any applicable bankruptcy, insolvency, reorganization, or similar law, now or hereafter in effect, whether voluntary or involuntary, seeking the adjudication of the User as a bankrupt or insolvent, or the filing of any petition, answer or other pleading seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or other similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors.

H. User voluntarily or involuntarily abandons the Leased Airport Property, or defaults under, or is in violation of, or forfeits, any agreement, license, permit, approval or other right that is material to the operation of the Airport or the conduct of the User's business at the Airport.

I. User petitions or consents to the appointment of any trustee, receiver or liquidator of the User or of any portion of the Leased Airport Property or the Rent or other revenues, issues, earnings, profits or income derived therefrom, or the making of any general assignment for the benefit of creditors by the User or the admission in writing of the User's inability to pay the Rent or any of the User's other debts generally when due.

J. The entry by a court of competent jurisdiction, without the consent of the User, of any judgment, decree or other order approving or otherwise authorizing a petition filed against the User for any reorganization, arrangement, composition, readjustment, liquidation, or dissolution of the User, or any other similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the appointment or naming of any trustee, receiver or liquidator of the User or of any portion of the Leased Airport Property or the Rent, issues, revenues, earnings, profits or income thereof.

K. The failure to promptly pay when due all taxes, water, assessments, dues, charges, fines, liens, and other impositions of every kind or nature whenever imposed, levied, assessed or to be imposed, levied or assessed upon or against any of the Leased Airport Property.

L. The failure to promptly pay when due any and all income taxes, assessments and other governmental charges lawfully levied and imposed by the United States of America, State of Alabama, the City of Gulf Shores, or any other federal, state, county, municipal, or other agency or authority having jurisdiction over the User or any portion of the Leased Airport Property, which, if unpaid, would become a lien or charge upon the User or the Leased Airport Property.

M. The sale, assignment, or other transfer of any portion or any beneficial interest in the Leased Airport Property, except as may otherwise be permitted herein, without first obtaining the prior written consent of the Authority.

N. If User is a partnership, corporation, limited liability company, or other entity, then the sale or other transfer of any share, stock, portion, or other ownership interest in the User greater than 50% by any partner, shareholder or venturer, of User, or any partner, shareholder or venturer of any entity which is itself a partner, shareholder or venturer of User, without first obtaining the prior written consent of the Authority, which consent may be granted or refused by the Authority in its sole discretion for any reason.

O. The creation, filing or suffering to exist by the User or any person or entity related in any way to the User, of any mechanic, material, mortgage, or other lien, judgment, or other encumbrance on the Leased Airport Property, other than the lien for appropriate ad valorem taxes and other assessments not delinquent, without the prior written consent of the Authority, which consent may be granted or refused by the Authority in its sole discretion for any reason.

#### **Section 8.02 - Remedies of the Authority on Default:**

Upon the happening of any Event of Default as set forth herein above or any other Event of Default as defined and used herein, except as may be otherwise provided herein, the Authority shall have the absolute right, in the Authority's sole discretion, to take any one or all the following remedial steps, to-wit:

A. Terminate this Agreement and take immediate possession of the Leased Airport Property and exclude the User from possession thereof.

B. Take whatever proceedings in at law or in equity necessary or desirable to enforce any term, obligation, covenant, or agreement of the User hereunder or otherwise protect the Airport or the Leased Airport Property or the Authority or the City.

C. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be constructed to be a waiver thereof but any such right or power may be exercised from time to time and as often as may be deemed expedient.

D. In the event the Authority elects to take possession of all or any portion of the Leased Airport Property as provided herein, notwithstanding whether such possession was taken by the Authority because of the default of the User or otherwise, the Authority shall have the absolute right and authority to hold, store, use, operate, manage, and control the Leased Airport Property, and if applicable, conduct the business thereof, and construct or complete the construction of any improvements thereon, and make any and all necessary and proper maintenance, repairs, renewals, replacements, additions, and improvements thereto, and to keep said Leased Airport Property properly and adequately insured, and exercise any and all rights and powers of the User in the User's name, place and stead, including but not limited to, entering into any agreements regarding the Leased Airport Property and the rights and powers of the User therein, and collect and receive all Rent, issues, revenues, earnings, profits or income derived therefrom, including those past due and those accruing thereafter.

E. User shall be responsible to the Authority for the full payment of any amounts expended or incurred by the Authority, including but not limited to reasonable attorney's fees, whether before or after an occurrence of default, to advise or provide other representation to the Authority with respect to this Agreement, or the Leased Airport Property, or to collect any Rent or other sums due hereunder, or to take any action to protect the Leased Airport Property or any buildings or other improvements or equipment situated thereon, or to enforce any term, condition, covenant, or agreement contained in this Agreement.

F. In the event of a default by the User or any entity of User in the performance any term, condition, covenant, or agreement, contained in this Agreement, and such default is thereafter waived by the Authority, such waiver shall be limited exclusively to the particular default or breach so waived and shall not be deemed in any way to waive any other or future breach hereunder.

G. In no way shall any waiver or non-waiver of one default by the Authority extend to or affect any other then existing or subsequent default of or by the User or impair any rights, powers or remedies the Authority may have hereunder or under any other law or statute or in equity.

H. All rights and remedies available to the Authority shall be cumulative, and any delay, omission, or failure by the Authority to exercise any applicable right or remedy upon default by the User shall in no way constitute or be considered as a waiver of such right or remedy or any other right or remedy the Authority may have hereunder or under any other law or statute, or in equity.

### **Section 8.03 - User's Remedies on Default:**

In the event of default by the Authority, and provided the User or User's entity is not in default of any term or condition contained herein, the User shall have the option to cancel or terminate this Agreement if the Authority fails to cure same within Thirty (30) days of receipt of written notice of such default specifying the nature of same and requesting such default be remedied; however, in the event corrective action is instituted by the Authority promptly upon receipt of the written notice and such corrective action is diligently pursued until the default is remedied, the User shall not have the option to terminate this Agreement.

## **ARTICLE 9**

### **Section 9.01 - Termination by United States of America:**

This Agreement shall automatically terminate upon the effective date of the reversion to the United States of America, or any branch or agency thereof, of the title, right of possession and other rights originally transferred under and pursuant to the terms of the Quitclaim Deed, and the Authority shall not be liable to User for the loss of the leasehold estate created hereby or for any other loss of any kind or nature suffered by User as a result of the termination of this Agreement pursuant to the provisions of this Article, and any such liability is hereby released and discharged as a condition of and in consideration for the execution and delivery of this Agreement to the User by the Authority.

### **Section 9.02 - Rights of User Upon Termination by United States of America:**

A. User shall have the right and option to terminate this Agreement if the United States of America or any branch or agency thereof elects to exercise its jurisdiction and control of the Airport or the Leased Airport Property and the User is thereby prevented for a period of Thirty (30) consecutive days from carrying on its normal operations at the Airport in the manner in which such operations were conducted immediately prior to such exercise.

B. In the event the User fails to exercise, or notifies the Authority that it will not exercise, the option to terminate this Agreement as provided herein above, then the User shall continue to pay Rent and all other revenues as provided herein, and this Agreement shall continue in full force and effect under all terms and conditions herein contained.

## ARTICLE 10

### **Section 10.01 - Specific Provisions Regarding City of Gulf Shores:**

A. User acknowledges that, notwithstanding anything contained herein to the contrary, this Agreement and User's obligations hereunder are and shall also be subject to certain rules, regulations, terms, conditions, and provisions of the City of Gulf Shores and the Master Lease.

B. User acknowledges the total duration hereof, including any and all Terms and renewals, shall not extend beyond the term of the Master Lease, which term currently ends on June 30, 2107.

### **Section 10.02 - General Provisions:**

A. This Agreement shall completely and fully supersede any and all other prior agreements, both written and oral, between the Authority and the User relating to the matters contained herein.

B. After the proper execution and delivery of this Agreement by the Authority, the User and Authority shall look solely to this Agreement for definition and determination of their respective rights, liabilities and responsibilities relating to the Airport and the neither party shall have any other rights whatsoever except as provided herein.

C. Time is of the essence regarding the timely payment of all Rent and other sums due under this Agreement and any other charge, assessment, cost, expense, or other payment or sum specified herein or otherwise due hereunder or related hereto.

D. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument, and this Agreement shall insure to the benefit of, and shall be binding upon, the Authority, the User and their respective successors and assigns.

E. All Section headings and captions contained herein are included for convenience only, and shall not be considered a part or affect in any manner the construction or interpretation hereof.

F. In the event a particular clause, term, covenant or provision of this Agreement or any other related document is adjudged to be invalid, illegal, or unenforceable in any respect, the validity of the remaining covenants, agreements, conditions, terms and provisions contained herein or in said other documents shall not be affected, prejudiced, impaired, or otherwise limited in any way and the remainder of this Agreement shall remain binding and enforceable upon all parties to it.

### **Section 10.03 - Legal Jurisdiction Section and Waiver of Trial by Jury:**

A. This Agreement shall be governed exclusively by the applicable laws of the State of Alabama, with jurisdiction over any dispute or proceeding regarding any term, condition, covenant, or provision contained herein or other matter related in any way hereto being in Baldwin County.

B. User specifically waives any right to trial by jury on any claim, counterclaim, setoff, demand, or cause of action arising out of or in any way pertaining or relating to this Agreement or any other related instrument or document executed or delivered in connection herewith or in any way connected with or pertaining or incidental to any dealing or transaction of the parties related hereto or contemplated hereby or the exercise of any right or remedy by either party hereunder, whether now existing or hereafter arising, and whether same shall be in contract, tort or otherwise.

**Section 10.04 - Notices:**

A. Any notice, document, or other communication required hereunder shall be deemed to be received on the date delivered, if delivered personally, or as of three (3) days after the date placed in the U.S. mail, if mailed, or the next business day, if sent by overnight courier, and the Authority and User agree to properly notify the other of any such change in the addresses listed herein below.

B. All notices, demands, consents, certificates or other communications hereunder shall be in writing, shall be sufficiently given and shall be deemed given when delivered personally to the party or to an officer of the party to whom the same is directed, or mailed by registered or certified mail, postage prepaid, or sent by overnight courier, and addressed as follows, to-wit:

- (1) **THE AIRPORT AUTHORITY OF THE CITY GULF SHORES**  
**Post Office Box 919**  
**Gulf Shores, Alabama 36547-0919**
- (2) **{Insert Lessee}**
- (3) **THE CITY OF GULF SHORES** (If Applicable)  
**Post Office Box 922**  
**Gulf Shores, Alabama 36547-0922**

**Section 10.05 - Effective Date and Expiration Date:**

A. Notwithstanding the actual date this Agreement has been duly executed by the parties, the Authority and User mutually agree the effective date of this Agreement shall be \_\_\_\_\_ **1, 20\_\_**, and the said date of “\_\_\_\_\_ **1**” shall be the Anniversary Date for all future Rent adjustments, renewals, and notices.

B. The expiration date for this Lease, if not terminated earlier, shall be \_\_\_\_\_, **2055**.



**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed under seal on the day and date first above written.

**ATTESTED:**

**THE AIRPORT AUTHORITY OF  
THE CITY OF GULF SHORES,  
A Public Corporation**

\_\_\_\_\_  
**BY**  
As Its Secretary

\_\_\_\_\_(SEAL)  
**BY**  
As Its Chairman

**ATTESTED:**

**GULF AIR CENTER, INC.,  
An Alabama Corporation**

\_\_\_\_\_  
**BY**  
As Its Secretary

\_\_\_\_\_(SEAL)  
**BY**  
As Its President

**This Instrument Prepared By:**

Timothy D. Garner  
Attorney at Law  
Post Office Box 3304  
Gulf Shores, Alabama 36547-3304  
Telephone (251) 968-5540  
Facsimile (251) 968-5451

**NOTARY ACKNOWLEDGMENTS**

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

I, the undersigned, a Notary Public in and for said county and said state, do hereby certify that \_\_\_\_\_, whose name(s) as Chairman of **THE AIRPORT AUTHORITY OF THE CITY OF GULF SHORES**, a public corporation, is signed to the foregoing Agreement and who is known to me or otherwise produced valid identification, acknowledged before me on this day, that, after being informed of the contents of said instrument, he/she/they, as such official(s) and with full authority, executed the same voluntarily for and as the act of said corporate authority on the day the same bears date.

Given under my hand and official seal on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**My Commission Expires:**

\_\_\_\_\_

\_\_\_\_\_  
**NOTARY PUBLIC**

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

I, the undersigned, a Notary Public in and for said county and said state, do hereby certify that \_\_\_\_\_, whose name(s) as President of **[insert Lessee]**, an Alabama corporation, is signed as User to the foregoing Agreement and who is known to me or otherwise produced valid identification, acknowledged before me on this day, that, after being informed of the contents of said instrument, he/she/they, as such official(s) and with full authority, executed the same voluntarily for and as the act of said company on the day the same bears date.

Given under my hand and official seal on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**My Commission Expires:**

\_\_\_\_\_

\_\_\_\_\_  
**NOTARY PUBLIC**

**EXHIBIT A**

**TO**

**LEASE AND OPERATING AGREEMENT**

**LEGAL DESCRIPTION**

Legal Description and or location and description of the land areas to be leased.

SAMPLE

**EXHIBIT C**  
**STORM WATER DISCHARGE PERMITS**

User acknowledges the Airport and all Airport Property, including, but not limited to the Leased Airport Property, is subject to certain storm water discharge regulations promulgated by the FAA and other Governmental Authorities, and hereby agrees as follows, to-wit:

1. Notwithstanding any other provisions or terms contained in this Lease or any other related document, User expressly acknowledges the following, to-wit:

A. The Airport is subject to federal storm water regulations, 40 CFR. Part 122, for "vehicle maintenance shops" (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations and/or deicing operations that occur at the Airport as defined in these regulations and, if applicable, state storm water regulations. User further acknowledges that it is familiar with these storm water regulations; that it conducts or operates "vehicle maintenance" (including vehicle rehabilitation, mechanical repairs, painting, fueling and lubrication), equipment cleaning operations and/or deicing activities as defined in the federal storm water regulations; and that it is aware that there are significant penalties for submitting false information, including fines and imprisonment for knowing violations.

B. The Airport's storm water discharge permit, as same may be amended from time to time, is incorporated herein by reference and any subsequent renewals or modifications hereof, and said permit may name User as co-permittee.

C. User may have to undertake to minimize the exposure of storm water (and snow melt) to "significant materials" generated, stored, handled or otherwise used by the User on or about the Leased Airport Property, as defined in the federal storm water regulations, by implementing and maintaining "Best Management Practices."

E. Close cooperation with the FAA, the Authority and other Governmental Authorities having jurisdiction of the Leased Airport Property is essential to ensure continued compliance with all storm water discharge permit terms and conditions and to ensure safety and minimize costs, notwithstanding any defense by User of User's right to quiet enjoyment.

2. User certifies User has taken steps all necessary steps to apply for and obtain a storm water discharge permit for the Leased Airport Property as may be required by the FAA, the Authority, and any other applicable regulation of or for the Airport.

3. The Authority will provide User with written notice of the storm water discharge permit requirements contained in the Airport's storm water permit, and thereafter, User shall be obligated and required, from time to time, to perform or provide the following, to-wit, (i) certification of non-storm water pollution prevention of similar plans; and (ii) implementation of "good housekeeping" measures or Best Management Practices; and (iii) maintenance of necessary records, and any such notice by the Authority shall include applicable deadlines.

## EXHIBIT C CONTINUED

4. User shall, within seven (7) days of receipt of such written notice, notify the Authority in writing if User disputes any of the storm water discharge permit requirements User is being directed to undertake, and if User does not provide such timely notice, User is deemed to assent to undertake such requirements.

5. If User provides the Authority with timely written notice of User's dispute of any storm water discharge permit requirement, the Authority shall review User's objection and meet with User in an attempt to address such objection and resolve same, and User expressly warrants User will not object to said written notice from the Authority for the purpose of delay or avoiding compliance.

6. User shall, at User's expense, immediately undertake compliance with all storm water discharge permit requirements contained in said written notice from the Authority, unless otherwise agreed to in writing by and between the Authority and User.

7. User agrees time is of the essence with regard to full compliance with all storm water discharge permit requirements, and as such, User warrants User shall meet any and all deadlines that may be imposed or as may otherwise be agreed upon by Authority and User.

8. The Authority agrees to provide to User, Upon User's request, any non-privileged information collected and submitted to any governmental entity pursuant to any applicable storm water regulation.

9. User agrees the terms and conditions of the Airport's storm water discharge permit may change from time to time, and User hereby appoints Authority as User's lawful agent to negotiate with any appropriate Governmental Authority or agency any such permit modifications.

10. Any default by User in the prompt and complete performance of any term, condition or provision of the Airport's or User's storm water discharge permit or any other matter related thereto, shall be deemed to be a material breach of this Lease, and the Authority shall thereupon notify User in writing of such default, and if such default is not cured within the time specified in said written notice, the Airport may seek to terminate this Lease pursuant to the terms thereof.

11. User agrees to participate in any Airport-organized task force or other work group established to coordinate storm water activities at the Airport.

12. User expressly acknowledges and agrees the Authority reserves the right to change, amend, or modify, from time to time and as may be needed or required, any and all applicable storm water discharge permit rules, regulations and requirements as may be implemented, mandated, promulgated, or otherwise required by the FAA, the City, the Authority, or any other applicable municipal or Governmental Authority or agency having jurisdiction thereof.