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## Memorandum

To: Lisa Pyles, Director of Infrastructure & Operations  
From: Bill Dyer, Real Estate Manager  
CC: Joel Jenkinson, Airport Director  
Date: 11/20/2013  
Re: ExecHangar ADS, LC Proposed Assignment of Ground Lease to RR Investments, Inc.

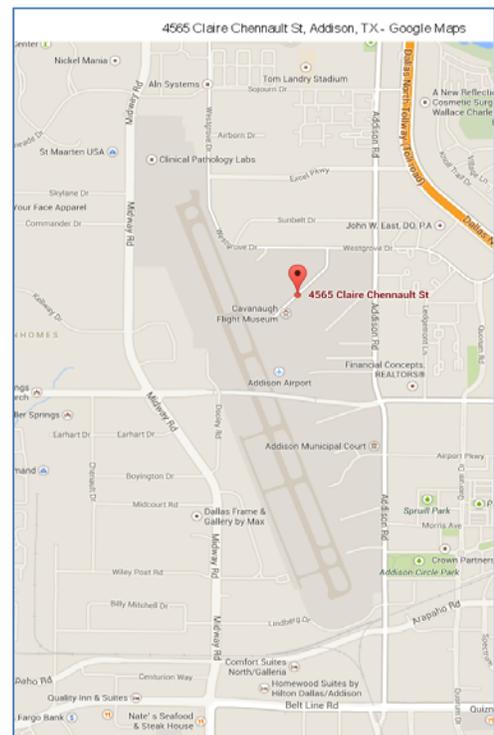
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ExecHangar ADS, LC (“ExecHangar”) is requesting the Town’s consideration and consent to the proposed sale and assignment of their building improvements, together with their leasehold interests in Ground Lease #068C-0111 to RR Investments, Inc. d/b/a Million Air Dallas, a Texas corporation (“RRI”).

Airport Management is recommending the Town Council give its consent to ExecHangar’s request and, in connection therewith, Airport Management is also recommending the Town Council give its consent to the early termination of the assigned ExecHangar ground lease in favor of replacing it with the proposed ground lease containing the terms and conditions outlined below. Should RRI fail to terminate the ExecHangar ground lease and execute the new ground lease, RRI will remain obligated as tenant of the assigned ExecHangar ground lease, which in such event, would remain in full force and effect.

In order to facilitate the recommended action, please find attached the following agreements for the Council’s consideration and consent authorizing the city manager to execute the documents on behalf of the Town of Addison:

- Exhibit “A”: Proposed Assignment of Ground Lease Agreement to be executed by the parties and consented to by the Town
- Exhibit “B” Proposed Early Termination of Ground Lease Agreement by and between the Town and RRI



- Exhibit “C” Proposed Ground Lease Agreement by and between the Town and RRI

The city attorney has reviewed the above referenced agreements and find each acceptable for the Town's use.

**Background Information:**

ExecHangar ADS, LC was formed for the purpose of developing and operating a corporate/executive aircraft hangar co-operative at Addison Airport. The ground lease, located at 4565 Claire Chennault off Taxiway Victor, consists of 2.02 acres of airport property. It was first entered into November 14, 2007 and commenced June 1, 2010. The ground lease has a 40-year term with nearly 36 years remaining and is due to expire in 2050. Current ground rental is \$4,633 per month or \$55,596 a year (\$.63/SFL) and subject to biennial CPI adjustments.



Figure 1: Aerial view of subject property.

The leased premises have been improved with a 22,950 SF executive jet hangar with 28’ high hangar doors, over 9,000 SF of executive office space and 30,000 SF of dedicated aircraft apron. The building improvements were completed in 2010 and are currently valued by DCAD at \$1,683,000.

ExecHangar’s business model was based upon selling shares of fractional ownership interests in the project through private offerings pursuant to the ExecHangar Offering Memorandum with the proceeds being used to finance the construction, management and operation of the project. Its concept was to provide a unique form of hangar ownership at Addison Airport for mid-size corporate flight departments and executive operators who could have the opportunity to participate in the investment benefits of co-operative hangar ownership, including appreciation, cost management and tax benefits, if any. As part of the project ExecHangar also was granted a non-public fueling permit by the Town.



Figure 2: Street view of the subject property located at 4565 Claire Chennault

For a variety of reasons, the project was not as successful as envisioned by the developer. The sale of ownership interests proved to be problematic because of the economy’s protracted recovery and lingering uncertainty within the aviation industry. In effort to generate sufficient operating capital, ExecHangar entered into numerous hangar subleases, which were not eligible for non-public fueling privileges. Ultimately, the Town suspended and subsequently terminated ExecHangar’s non-public fueling permit for non-performance reasons. However, ExecHangar currently is in good standing with the Town and airport management with respect to their ground lease.

<b>Ground Lease #068C-0111</b>	
	<b>Currently</b>
Land Area	87,818 SF 2.02 acs.
Hangar Area	22,950 SF
Office Area	9,238 SF
Total Building Area	32,188 SF
Year Built	2010
Lease Commenced	6/1/2010
Lease Expiration	5/31/2050
Term Remaining	36
Current Monthly Rent	\$4,633
Current Annual Rent	\$55,596
DCAD 2012 Valuation	\$1,683,180
Insured Value	\$1,700,000

## **About the Proposed Transaction**

To facilitate airport management's recommended action; ExecHangar and RRI will need to consummate their transaction and execute the proposed ground lease assignment. Immediately thereafter, RRI agrees to early terminate the ExecHangar ground lease in favor of entering into a new conventional ground lease agreement with the Town. The new ground lease will contain terms and conditions similar to RRI's existing three ground leases at Addison Airport. Should RRI fail to terminate the ExecHangar ground lease and enter into the new ground lease as proposed, RRI will remain obligated pursuant to the terms and conditions of the assigned ExecHangar ground lease.

### Summary of the Salient Terms and Conditions of the Proposed Ground Lease:

- The ground lease will commence as of the date of closing and is to continue until November 2052 or for 39 years, thus being coterminous with RRI's existing ground leases;
- The leased premises will consist of 3.045 acres and will include the existing building improvements, aircraft apron and 1.03 acres of adjacent land to the west reserved for the proposed Phase II development;
- Base Rent begins at \$76,666 (\$.58/SFL) per annum payable in 12 equal monthly installments of \$6,388.83 and will be subject to biennial CPI adjustments over the term. This rate structure is comparable to RRI's existing ground leases;
- The permitted use of the leased premises is the typical broad use for ground leased properties of this nature including FBO operations, similar to RRI's existing ground leases;
- RRI will have a 36-month exclusive option to construct the Phase II Hangar on the adjacent unimproved land, which design and construction have yet to be determined. However, it is agreed by the parties that it will be architecturally compatible and will meet or exceed the same design and quality of construction of the Phase I Hangar. Landlord reserves the right of approval of the Design Plan.
- Should RRI fail to commence construction on the Phase II Hangar on or before the third anniversary of the Commencement Date of the ground lease, the Town may at any time thereafter, in its sole discretion, rescind the Expansion Option and cause the Option Land (as defined) to revert back to the Town's use and possession. Until such time, RRI remains obligated for payment of the ground rent, as adjusted, apportioned to the Option Land.

**About the Proposed Assignee**

RR Investments, Inc. is a Texas corporation wholly owned by Richard Rogers, the Executive Chairman of Addison-based Mary Kay, Inc. RR Investments was founded in 1984 for the purpose of doing business as Million Air Dallas, one of the first upscale, full-service fixed-based operations of its kind. In addition to its FBO operations, Million Air Dallas is widely recognized for its exclusive charter services, aircraft management, and aircraft sales and acquisition services. It is also widely recognized as a leader within its industry, having received the FAA Diamond Award for Excellence for seven consecutive years.

RRI entered into its first ground lease with the Town in 1983 which called for the construction of what now serves as Million Air Dallas’ main facility at 4300 Westgrove Drive. Between 1994 and 1997, RRI acquired the leasehold interest of three improved and unimproved ground leased parcels adjacent to their main facility. In July 2010, RRI and the Town modified the terms of RRI’s ground leases in consideration of RRI constructing their most recent hangar facility at 4350 Westgrove Dr. This \$4MM+ development consists of 40,000 square feet ( 28’ clearance) executive hangar space with 8,000 square feet of attached luxury terminal facilities and 78,000 square feet of new dedicated aircraft apron.

**Strategic & Economic Considerations of the Proposed Transaction:**

With the proposed transaction, RRI will be the largest ground tenant at Addison Airport with 14.5 acres of leasehold interests held improved with over 186,000 square feet of quality hangar/office facilities. DCAD total valuation of the proposed RRI portfolio is in excess of \$6.1MM. The transaction represents to the airport a net revenue gain approximately \$21,000 per annum. Although it is difficult to quantify the indirect economic benefits associated with the proposed transaction, it’s anticipated RRI and Million Air Dallas will be able to further leverage their based aircraft operations and fuel sales volume because of the additional hangar and aircraft apron space. Once the Phase II Hangar is constructed, these economic benefits should even be greater.

Summary of RR Investment, Inc. Ground Leases After Proposed Transaction									
Lease #	Address	ALP#	Lease Start	Lease End	Land Area	Bldg. Imprv.	Annual Rent	Monthly Rent	\$/SFL
Lease 0690-5901	4310 Amelia Earhart	A12	6/1/1984	11/30/2052	183,509	55,772	\$ 105,981.72	\$ 8,831.81	\$0.578
Lease 070A-5201	4300 Westgrove Dr	A13	12/1/1983	11/30/2052	158,020	50,800	\$ 91,261.20	\$ 7,605.10	\$0.578
Lease 070A-5601	4350 Westgrove Dr	V3	4/1/1984	11/30/2052	157,866	48,000	\$ 91,314.36	\$ 7,609.53	\$0.578
Lease 068C-0112	4565 Claire Chennaut	V8	11/30/2013	11/30/2052	132,640	32,188	\$ 76,666.00	\$ 6,388.83	\$0.578
					<b>632,035</b>	<b>186,760</b>	<b>\$ 365,223.28</b>	<b>\$ 30,435.27</b>	<b>\$0.578</b>

\*Total building improvements do not include the Phase II Hangar

The proposed transaction is found to be consistent with the tenets of the Addison Airport Strategic Plan:

- The proposed transaction will optimize the use and benefit of the 4565 Claire Chennault facility
- RRI and Million Air continues to help enhance the overall value of the airport with its high level of real estate development, facility maintenance, customer service and best business practices within their industry;
- As a result of Million Air Dallas' extensive marketing and promotion in support of their own operations, the Town, Addison Airport and the surrounding community directly and indirectly benefit with added exposure, recognition and economic benefit.
- Million Air Dallas, through their sponsorship of various social, business and civic special events throughout the year, is seen as a vital contributor to the community on and off the airport
- Million Air Dallas has long been regarded as the industry leader in customer service and satisfaction amongst general aviation fixed-based operators (FBO's), air charter services and aircraft management; setting the standard for all of Addison Airport's business operators to aspire.

**Airport Management's Conclusion and Recommendation:**

ExecHangar ADS, LC ("ExecHangar") is requesting the Town's consideration and consent to the proposed sale and assignment of their building improvements, together with their leasehold interests to RR Investments, Inc. d/b/a Million Air Dallas, a Texas corporation ("RRI").

Airport Management is recommending the Town Council give its consent to ExecHangar's request, authorizing the City Manager to execute, on behalf of the Town, the proposed Assignment of Ground Lease Agreement substantially in the form as shown in Exhibit "A" attached hereto.

Furthermore, Airport Management is recommending the Town Council give its consent to the City Manager to execute, on behalf of the Town, the proposed Early Termination of Ground Lease Agreement (ExecHangar's) and replace it with the proposed Ground Lease Agreement by and between the Town and RRI, each of which are to be substantially in the form as shown in Exhibit "B" and Exhibit "C", respectively.

The City Attorney has reviewed each of these documents and finds them suitable for the Town's purposes. The above recommend actions shall be consummated subject to the ongoing review and oversight of the City Attorney.

Exhibit “A”

STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS       §

**ASSIGNMENT OF GROUND LEASE**

This Assignment of Ground Lease (the “Assignment”) is entered into effective as of \_\_\_\_\_ 2013, at Addison, Texas, by and between **EXECHANGAR ADS LC**, a Kansas limited liability company (herein referred to as “Assignor”) and **RR Investments, Inc.**, d/b/a Million Air Dallas, a Texas corporation (herein referred to as “Assignee”).

**WHEREAS**, a Ground Lease was executed on November 14, 2007 between the Town of Addison, a home-rule municipality in Dallas County, Texas and Assignor by the terms of which certain real property located at 4565 Claire Chennault Drive at Addison Airport within the Town of Addison, Texas (the “City” or “Landlord”) and owned by the City was leased to Assignor (which said Ground Lease is recorded as Instrument #201000239891 in the Official Public Records of Dallas County, Texas (the “OPR”)); and

**WHEREAS**, the Ground Lease was then amended by that certain First Amendment to Ground Lease entered into and made effective September 11, 2009 (a true and correct copy of the Ground Lease, as amended and modified (hereafter referred to as the “Ground Lease”), is attached hereto as Exhibit A); and

**WHEREAS**, the Ground Lease provides in Section 9 thereof that, without the prior written consent of the City, the Assignor may not assign the Ground Lease or any rights of Assignor under the Ground Lease (except as provided therein), and that any assignment must be expressly subject to all the terms and provisions of the Ground Lease, and that any assignment must include a written agreement from the proposed assignee whereby the proposed assignee agrees to be bound by the terms and provisions of the Ground Lease; and

**WHEREAS**, Assignor desires to assign the Ground Lease to Assignee, and Assignee desires to accept the Assignment thereof in accordance with the terms and conditions of this Assignment.

**NOW, THEREFORE**, for and in consideration of the mutual promises, covenants, and conditions contained herein, the sufficiency of which are hereby acknowledged, the parties hereto, each intending to be legally bound agree as follows:

**AGREEMENT**

1. Assignor hereby assigns, bargains, sells, and conveys to Assignee, effective as of the date above, all of Assignor’s right, title, duties, responsibilities, and interest in and to the Ground Lease, TO HAVE AND TO HOLD the same, for the remaining term thereof, and Assignor does hereby bind itself and its successors and assigns to warrant and forever defend the same unto Assignee against every person or persons lawfully claiming any part thereof.

2. Prior to the effective date of this Assignment, Assignee agrees to pay an Assignment Fee in the amount of Nine Hundred Dollars and no/100 (\$900.00) to the City.

3. Assignee hereby agrees to and shall be bound by and comply with all of the terms, provisions, duties, conditions, and obligations of Assignor (tenant) under the Ground Lease. For purposes of notice under the Ground Lease, the address of Assignee is:

RR Investments, Inc. d/b/a/ Million Air Dallas  
4300 Westgrove Drive  
Addison, Texas 75001

4. Nothing in this Agreement modifies, alters, amends or changes, and shall not be shall be construed or be deemed to modify, alter, amend or change, any term, provision, or condition of the Ground Lease, except as set forth herein.

5. The above and foregoing premises and recitals to this Assignment are incorporated into and made a part of this Assignment, and Assignor and Assignee both warrant and represent that such premises and statements, and all other provisions of this Assignment, are true and correct, and that in giving its consent, Landlord (as defined in the Consent of Landlord attached hereto) is entitled to rely upon such representations and statements.

6. Assignor acknowledges that in addition to any other remedies provided in the Ground Lease or by law, in equity, or otherwise, the City may at its own option, collect directly from the Assignee all rents becoming due under such assignment and apply such rent against any sums due to the City. No such collection by the City from Assignee shall release Assignor from the payment or performance of Assignor's obligations under the Ground Lease.

7. The undersigned representatives of the Assignor and Assignee have the necessary authority to execute this Assignment on behalf of each of the respective parties hereto, and Assignor and Assignee certify one to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

**IN WITNESS WHEREOF**, Assignor and Assignee have executed and delivered this Assignment on the day and the year first set forth above.

<b>ASSIGNOR:</b> <u>EXECHANGAR ADS LC</u>  _____ <b>By:</b> _____	<b>ASSIGNEE:</b> <u>RR Investments, Inc., d/b/a Million Air Dallas</u>  _____ <b>By:</b> _____
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**ACKNOWLEDGMENT**

**STATE OF TEXAS       §**  
**COUNTY OF DALLAS   §**

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (he, she) executed the same for the purposes and consideration therein stated.

GIVEN under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

[SEAL]

\_\_\_\_\_  
Notary Public, State of Texas

**STATE OF TEXAS       §**  
**COUNTY OF DALLAS   §**

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (he, she) executed the same for the purposes and consideration therein stated.

GIVEN under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

[SEAL]

\_\_\_\_\_  
Notary Public, State of Texas

**CONSENT OF LANDLORD**

The Town of Addison, Texas ("Landlord") is the Landlord in the Ground Lease described in the Assignment of Ground Lease (the "Assignment") entered into and effective as of \_\_\_\_\_ 2013, at Addison, Texas, by and between **ExecHangar ADS LC**, a Kansas limited liability company (herein referred to as "Assignor") and **RR Investments, Inc. d/b/a/ Million Air Dallas**, a Texas corporation (herein referred to as "Assignee"). In executing this Consent of Landlord, Landlord is relying upon the warranties, provisions, statements, and representations made and included in the foregoing Assignment by both Assignor and Assignee, and in relying upon the same Landlord hereby consents to the foregoing Assignment from Assignor to Assignee. However, notwithstanding this Consent, Landlord does not waive any of its rights or remedies under the Ground Lease as to the Assignor or the Assignee, and does not release Assignor from its covenants, obligations, duties, and/or responsibilities under or in connection with the Ground Lease, and Assignor shall be and remain liable and responsible for all such covenants obligations, duties, or responsibilities. In addition, notwithstanding any provisions of this Consent of Landlord or the above and foregoing Assignment to the contrary, this Consent of Landlord shall not operate as a waiver of any prohibition against further assignment, transfer, conveyance, pledge, change of control, or subletting of the Ground Lease or the premises described therein without Landlord's prior written consent.

This Consent shall be and remain valid only if and provided that, by no later than 6:00 o'clock p.m. on \_\_\_\_\_, \_\_\_\_\_, 2013:

(i) the Assignment has been executed and notarized by both Assignor and Assignee,

(ii) all other matters in connection with the transfer, sale, and/or conveyance by Assignor to Assignee of the Assignor's interest in the Ground Lease have been fully consummated and completed and the transaction closed as reasonably determined by Landlord (such matters including, without limitation, the full execution and finalization of this Assignment and any other documentation so required by Landlord relating to this transaction) and delivered to Landlord c/o the Addison Airport Real Estate Manager, at 16051 Addison Road, Suite 220, Addison, Texas 75001.

Otherwise, and failing compliance with and satisfaction of each of paragraphs (i) and (ii) above, this Consent shall be null and void *ab initio* as if it had never been given and executed.

Signed this \_\_\_\_ day \_\_\_\_\_, 2013

**LANDLORD:**

**TOWN OF ADDISON, TEXAS**

By: \_\_\_\_\_  
Ron Whitehead, City Manager

## Exhibit “B”



Agreement shall be null and *void ab initio*, shall have no force or affect whatsoever, and the Ground Lease shall remain in full force and effect. The early termination of Ground Lease shall not release Tenant from any of its obligations, duties, liabilities or responsibilities Tenant would otherwise have if the Ground Lease had been otherwise terminated or had expired in accordance with its terms and provisions.

**Section 3. Continued Performance.** Landlord and Tenant agree that each shall continue to perform their respective obligations contained in the Ground Lease including, but not limited to, Tenant's obligation to pay rent, through the Termination Date. If the Termination Date is other than the last day of the month, then the parties agree that the rent attributable to that part of the month through the Termination Date shall be prorated on a per diem basis.

**Section 4. Binding Effect.** This Agreement shall be for the benefit of, and shall be binding upon, the parties hereto and their respective heirs, executors, administrators, successors, and assigns (as the same may be permitted by the Ground Lease).

**Section 5. Applicable Law; Venue; Recording.** The parties agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Agreement; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement, and all obligations of the parties created by this Agreement are performable in Dallas County, Texas. Venue for any action under this Agreement shall lie in Dallas County, Texas. Landlord may record this Agreement or a memorandum hereof in the OPR.

**Section 6. Final Agreement; No Other Amendments.** This Agreement shall constitute the final agreement and understanding of the parties on the subject matter hereof and can only be modified by further written instrument signed and executed by both parties. Except to the extent modified or amended herein, all other terms, conditions, standards, and obligations of the Ground Lease shall remain unchanged and in full force and effect.

**Section 7. Authority to Execute.** The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

**IN WITNESS WHEREOF**, the undersigned parties have executed this Agreement as of the Effective Date first given above.

**LANDLORD:**

**TOWN OF ADDISON, TEXAS**

By: \_\_\_\_\_  
Ron Whitehead, City Manager

On this Date: \_\_\_\_\_

**TENANT:**

RR Investments, Inc. d/b/a Million Air Dallas

By: \_\_\_\_\_  
Jack Hopkins, President

On this Date: \_\_\_\_\_

**ACKNOWLEDGEMENTS**

THE STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS           §

This instrument was acknowledged before me, the undersigned authority, on \_\_\_\_\_, 2013 by Jack Hopkins, President, RR Investments, Inc.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE  
STATE OF TEXAS

My Commission Expires:

\_\_\_\_\_

\_\_\_\_\_  
(Printed Name of Notary)

THE STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS           §

This instrument was acknowledged before me, the undersigned authority, on \_\_\_\_\_, 2013 by Ron Whitehead, City Manager for the Town of Addison, Dallas County, Texas, a Texas home rule municipality, on behalf of said municipality.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS

My Commission Expires:

\_\_\_\_\_

(Printed Name of Notary)

\_\_\_\_\_

**EXHIBIT A**

**True and Correct Copy of**

**Ground Lease**  
as amended and modified

## Exhibit “C”

STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS       §

**GROUND LEASE AGREEMENT**

This Ground Lease Agreement (“Lease” or “Agreement”) is made and entered into as of \_\_\_\_\_, 2013 (the “Effective Date”), by and among the **Town of Addison, Texas**, a Texas home-rule municipality (hereinafter sometimes referred to as “Landlord” or the “City”), and **RR Investments, Inc.** d/b/a/ Million Air Dallas, a Texas corporation (hereinafter referred to as “Tenant”) (Landlord and Tenant are sometimes referred to herein together as the “parties” and individually as a “party”).

Summary of Exhibits
• Exhibit 1: ADS Legal Description
• Exhibit 2.1: As-Built Survey
• Exhibit 2.2: Legal Description of Demised Premises
• Exhibit 3: Description of Existing Building Improvements Constructed on Demised Premises
• Addendum 1 –Expansion Option

**WITNESSETH:**

**WHEREAS**, the City is the owner of the Addison Airport, a description of which is set forth in Exhibit 1 attached hereto and incorporated herein (the “Airport”); and

**WHEREAS**, the Airport is operated and managed for and on behalf of the City by URS Energy & Construction, Inc., an Idaho corporation and SAMI Management, Inc., a Texas corporation (collectively being, as of the Effective Date, the “Airport Manager” as that term is defined in Section 8.A. of this Lease), pursuant to their respective management agreements effective October 1, 2010 by and between the City and Airport Manager or as otherwise designated by the City from time to time; and

**WHEREAS**, Tenant desires to lease from the City, and the City desires to lease to Tenant, a portion of the Airport generally described as approximately 3.045 acres located in the proximity of 4565 Claire Chennault at the Airport all of which is more fully described in Exhibit 2.1 and Exhibit 2.2 attached hereto and incorporated herein (which portion is referred to herein as the “Demised Premises”) according to the terms and conditions set forth in this Agreement.

**NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:**

**Section 1. Demise of Demised Premises:**

A. In consideration of and subject to the terms, covenants and conditions set forth in this Agreement, Landlord does hereby lease to Tenant, and Tenant does hereby lease from Landlord, the Demised Premises.

B. As shown by Exhibit 2.1 and Exhibit 2.2, the Demised Premises are comprised of two non-contiguous tracts of land described and depicted in those Exhibits as Phase I (consisting of approximately 2.005 acres of land) (the "Phase I Tract") and Phase II (consisting of approximately 1.040 acres of land) (the "Phase II Tract"). The Phase I Tract is, as of the Effective Date, improved with a hangar and related improvements as described and depicted in Exhibit 3 attached to this Lease and incorporated herein by this reference (and such improvements are described herein as the Existing Building Improvements as set forth in Section 6 hereof). The Phase II Tract is, as of the Effective Date, unimproved.

C. This Lease includes an option pursuant to which Tenant may improve the Phase II Tract by constructing a building and related improvements thereon, which option is described in Attachment 1 attached to this Lease and incorporated herein by this reference. The option includes certain conditions and parameters for its exercise, and a reversion of the Phase II tract if those conditions and parameters are not timely met and satisfied. If those conditions are not timely met and satisfied as set forth in and in accordance with the provisions of Attachment 1, the Phase II tract will be excluded from and no longer a part of the Demised Premises. In such event, the parties will execute an instrument that reflects that the Demised Premises consist only of the Phase I tract.

D. This Lease is given and entered into subject to (i) all federal, state, and local laws, statutes, constitutional provisions, charters, ordinances, codes, rules, regulations, directives, policies, permits, standards, and orders (including, without limitation, court orders) of any governmental authority, entity, or agency (including, without limitation, the Town of Addison, Texas, the State of Texas, the Federal Aviation Administration, and the Texas Department of Transportation) whether in existence or hereafter enacted, adopted or imposed, and including, without limitation, any and all grant agreements or grant assurances now existing or as hereafter agreed to, adopted or imposed, (ii) all restrictive covenants affecting the Demised Premises, (iii) all restrictions, mortgages, deeds of trust, liens, easements, licenses, leases, and any other encumbrance on or matter affecting the Demised Premises, whether recorded or not, and (iv) and all of the terms, conditions, and provisions of this Lease.

## **Section 2. Term:**

Subject to the termination and all other provisions of this Lease, the term hereof (the "Term") shall commence on \_\_\_\_\_, 2013 (the "Commencement Date"), and shall end November 30, 2052 (the "Expiration Date"). The period of time beginning upon the Effective Date and ending upon the Commencement Date is herein referred to as the "Preliminary Period". Any entry upon and/or use of occupancy of the Demised Premises by Tenant during the Preliminary Period shall be subject to all of the terms and conditions of this Lease, except for the payment of Base Rent set forth in Section 3 below.

## **Section 3. Rental; Security Deposit**

A. Subject to adjustment as hereinbelow provided, Tenant agrees to and shall pay to Landlord, without notice, demand, offset or deduction, rental each month over the Term for the Demised Premises as set forth below:

1. **Base Rent:** Tenant agrees to and shall pay Landlord annual rental for the Demised Premises in the amount of Seventy-Six Thousand Six Hundred Sixty-Six Dollars and four cents (\$76,666.04) which amount shall be paid by Tenant in twelve equal monthly installments in advance on the first day of each calendar month (the "Base Rent", which shall be adjusted as set forth herein). The first such monthly payment or installment in the amount of Six Thousand Three Hundred Eighty-Eight Dollars and eighty-four cents (\$6,388.84) is due and payable on or before the Commencement Date. Thereafter, another payment or installment of the Base Rent, subject to adjustment as set forth below, shall be due and payable on the first day of each calendar month during the term hereof. All Base Rent is due on the first of each month and is delinquent after the 5<sup>th</sup> day of each month and subject to the provisions of Section 39.

2. In the event the Commencement Date is a date other than the first day of a calendar month, the monthly Base Rent for any partial month at the beginning of the Term shall equal the product of the Base Rent multiplied by a fraction, the numerator of which is the number of days in the partial month (beginning with the Commencement Date and ending with the last day of the partial month) and the denominator of which is the number of days in such full calendar month. Payment of Base Rent for any fractional calendar month at the end of the Term shall be similarly prorated.

**B. Security Deposit:** No Security Deposit required.

C. For purposes of this Lease, the term "Rent" means Base Rent, any additional rent described herein, Extra Base Rent (as defined in Section 10, below), and all other sums that Tenant may owe to Landlord or otherwise be required to pay under this Lease. Landlord shall have the same rights and remedies for non-payment of any Rent as for non-payment of Base Rent.

#### **Section 4. Adjustment of Rental:**

A. Commencing on January 1, 2015 and on every second anniversary thereafter (hereinafter referred to as the "Adjustment Date"), the monthly rental due under Section 3.A.1. shall be adjusted as follows:

1. Base Rent shall be adjusted to reflect changes in the Consumers' Price Index - All Items for Dallas, Texas Metropolitan Area (hereinafter referred to as the "Consumer Price Index"), as quoted in the publication *Consumer Price Index for All Urban Consumers (CPI-U)* for the Dallas-Fort Worth Consolidated Metropolitan Statistical Area which is issued by the U.S. Department of Labor, Bureau of Labor Statistics. The basic index ("Basic Index") is the Consumer Price Index existing on the Commencement Date. The current index ("Current Index") is the Consumer Price Index on the first day of the calendar month preceding the then applicable Adjustment Date.

2. Beginning with the first full month following the then applicable Adjustment Date, the annual Base Rent shall be adjusted so that it equals the product of the annual Base Rent multiplied by a fraction, the numerator of which is the Current Index and the denominator of which is the Basic Index, but in no event shall such monthly rent ever be decreased below the Base Rent set forth in Section 3.A.1.

3. In the event that the Price Index is unavailable for whatever reason for the computations set forth hereinabove, another index approximating the Price Index as closely as feasible (as determined by Landlord) shall be substituted therefor.

#### **Section 5. Use of Demised Premises:**

During the Term the Demised Premises shall be used and occupied by Tenant as set forth hereinbelow and not otherwise without the prior written consent of Landlord:

1. The Demised Premises shall be used and occupied by Tenant only for the following purposes: sale of aircraft and aircraft parts; aircraft maintenance and repair, aircraft storage; aircraft training, aircraft charter; aircraft rentals; certain Fixed Base operations, as follows: hangars, shops, aircraft ramps, and vehicle parking, and the sale of aircraft services to the public, including dispensing fuel in accordance with and subject to the authority issued by and ordinances, rules, standards and regulations of the City (including but not limited to the requirement to obtain a fuel license from Landlord); and not otherwise without the prior written consent of Landlord.

2. The Demised Premises shall not be used for any purpose or activity that (i) constitutes a violation of any federal, state, or local laws, ordinances, orders, directives, charters, rules, regulations, standards or policies, (ii) in Landlord's opinion, creates or would create a nuisance or waste, or unreasonably disturb, annoy or interfere with other tenants or users of the Airport, or (iii) increases insurance costs for Landlord.

3. Tenant shall not at any time leave the Demised Premises vacant, but shall in good faith continuously throughout the term of this Lease conduct and carry on in the entire Demised Premises the type of operations or use for which the Demised Premises are leased, except during periods in which the Demised Premises may not be occupied as a result of fire or other casualty, or during any commercially reasonable period necessary for making repairs and alterations, all such repairs and alterations to be diligently pursued to completion.

4. Tenant acknowledges that Landlord is bound by, and this Ground Lease is subject to, the terms and conditions of any and all Federal Aviation Administration, Texas Department of Transportation, and other grant agreements, grant assurances and regulations regarding the Airport, including, without limitation, any grant, loan, regulation, or agreement under

Section 22.055 of the Texas Transportation Code, as amended or superseded, whether now existing or made in the future. Tenant agrees not to act or fail to act in any way or manner that would cause Landlord to be in violation of any of the foregoing.

5. Tenant for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (i) no person on the grounds of race, creed, color, national origin, sex, age or handicap shall be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination in the use of the Demised Premises; (ii) that in the construction of any improvements on, over or under the Demised Premises and the furnishing of services thereon, no person on the grounds of race, creed, color, national origin, sex, age, or handicap shall be excluded from participation in , denied the benefits of or otherwise be subjected to discrimination; (iii) that the Tenant shall use the Demised Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964 and as said Regulations may be amended.

6. The Tenant agrees to furnish service on a fair, equal, and not unjustly discriminatory basis to all users thereof and to charge fair, reasonable, and not unjustly discriminatory prices for each unit or service, provided that the Tenant may be allowed to make reasonable and non-discriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

#### **Section 6. Construction of Improvements:**

A. As set forth in Section 1 of this Lease, above, the Demised Premises consists of the Phase I Tract and the Phase II Tract; and a building (hangar) and related improvements as described in Exhibit 3 attached hereto are located on the Phase I Tract, but the Phase II Tract is unimproved. Further, as described in Section 1 of this Lease, this Lease (in Addendum 1 hereto) includes an option for Tenant to construct a building and related improvements on the Phase II Tract. The building and related improvements described in Addendum 1 to this Lease are the only building and improvements that the Tenant may construct, place, or locate on the Phase II Tract, and Tenant shall not construct, place, or locate any other building or improvements on the Phase II Tract without the prior written consent of the Landlord.

B. In connection with the use and occupancy of the Demised Premises by Tenant, Tenant may, in accordance with the provision of Addendum 1 attached to this Lease and other applicable provisions of this Lease, cause to be constructed on the Demised Premises that building (hangar) and related improvements (together, the "Phase II Hangar")

as described in Addendum 1, at Tenant's sole cost, expense and risk (except as may be otherwise agreed to in writing between Landlord and Tenant), in accordance with plans and specifications that must be submitted by Tenant to Landlord and approved in writing by Landlord. Landlord reserves the right to withhold approval for any reason in its sole discretion.

The Phase II Hangar will, if constructed on the Phase II Tract, be improvements to the Demised Premise that are in addition to those real property and structural improvements that have been made and exist on the Demised Premises (on the Phase I Tract) as of the Effective Date of this Agreement (the "Existing Building Improvements"). The Phase II Hangar, the Existing Building Improvements, and any other buildings or improvements made to, or installed, located or placed upon, the Demised Premises any time during the Term are herein referred to together as the "Building Improvements." Except as provided for in this Agreement, Tenant may not construct, locate, install, place or erect any buildings or other improvements upon the Demised Premises without the prior written consent of Landlord.

B. Except with regard to Existing Building Improvements, all Building Improvements (including any modifications or changes to the Existing Building Improvements) shall be constructed on the Demised Premises in accordance with plans and specifications prepared by an architect and/or engineer selected and retained by Tenant (the "Design Plan"), which shall be submitted to Landlord for Landlord's consideration of approval (which approval, if any, shall be in writing). Any architect or engineer shall be duly licensed and authorized as may be required by law to practice architecture or engineering, as the case may be, in the State of Texas. Such construction shall be performed in a first class, workmanlike manner and in compliance with all applicable building codes, standards and ordinances, as set out in more detail, below. Tenant agrees to promptly pay and discharge all costs, expenses, claims for damages (including, without limitation, consequential damages) or injury (including, without limitation, claims for personal injury or death, or property damage or destruction, or economic loss), liens and any and all other liabilities and obligations which arise in connection with such construction, and in connection therewith **TENANT SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS LANDLORD AND AIRPORT MANAGER, IN ACCORDANCE WITH SECTION 21., SUBSECTION B. (TENANT'S INDEMNITY OBLIGATION) OF THIS LEASE.** It is expressly understood and agreed that Tenant's construction of the Building Improvements shall include the finish-out of such building and improvements in accordance with the plans and specifications for the finish-out of the Building Improvements as submitted by Tenant to Landlord and approved in writing by Landlord.

C. After commencement of construction, Tenant shall complete construction of any Building Improvements with reasonable diligence, without material deviation from the Design Plan, and any deviation from the Design Plan shall be subject to the review and reasonable approval of Landlord.

D. Landlord's approval of the Design Plan or any other plans and specifications does not impose on Landlord any responsibility whatsoever, including, without limitation, any responsibility for the conformance of the plans and specifications with any governmental regulations, building codes, and the like, for which Tenant and its contractors shall have full and complete responsibility.

E. Tenant agrees that any construction or modification of the Building Improvements or any other improvements (authorized to be constructed in writing by Landlord) on the Demised Premises shall comply with all standards, codes, and rules adopted by Landlord or Manager and generally applicable to similar improvements located on and within the Airport, including, but not limited to, any rules relating to construction and maintenance standards and specifications, will comply with the Town of Addison, Texas building code and zoning requirements, and will meet or exceed all applicable State and Federal standards (including, without limitation, Title III of the Americans With Disabilities Act of 1990, any state laws governing handicapped access or architectural barriers, and all rules, regulations, and guidelines promulgated under such laws, as amended from time to time). Tenant recognizes that such construction/maintenance standards and specifications, Town of Addison building code and zoning requirements, and all applicable State and Federal standards, and other applicable standards, codes, and rules may be modified or amended from time to time and that compliance will be measured by such standards in effect at the time of a particular construction or modification of improvements.

F. Tenant will properly and timely submit to the Federal Aviation Administration (FAA), the Texas Department of Transportation (TxDOT), and any other governmental entity or agency having jurisdiction regarding Addison Airport, a Notice of Proposed Construction or Alteration (FAA Form 7460-1), a TxDOT Airport Construction Emission Inventory, and such other forms and information as may be required by the FAA, TxDOT, or other governmental entity or agency having jurisdiction over Addison Airport.

G. Tenant further agrees that the Landlord shall be authorized at all times during any project of construction to enter upon the Demised Premises, and all parts thereof, in order to observe the performance of such construction, and Tenant agrees to provide the Landlord a construction schedule setting out the time of commencement, substantial completion, final completion, and completion of significant elements of the construction, which schedule shall be delivered to Landlord prior to the start of any construction project on the Demised Premises.

H. Failure of Tenant to observe and comply with the requirements of this Section shall be an Event of Default.

**Section 7. Acceptance of Demised Premises:**

**TENANT ACKNOWLEDGES THAT TENANT HAS FULLY INSPECTED THE DEMISED PREMISES AND ACCEPTS THE DEMISED PREMISES AND THAT THE DEMISED PREMISES ARE LEASED TO TENANT "AS IS, WHERE IS, AND WITH ALL FAULTS AND PATENT AND LATENT DEFECTS", AND LANDLORD HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS, ANY REPRESENTATION, PROMISE, COVENANT, AGREEMENT, GUARANTY OR WARRANTY OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, AS TO THE QUANTITY, QUALITY, CONDITION, SUITABILITY, HABITABILITY, OR FITNESS OF THE DEMISED PREMISES FOR ANY PURPOSE WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION REGARDING SOIL CONDITIONS, AVAILABILITY OF UTILITIES, DRAINAGE, ZONING LAWS, ENVIRONMENTAL LAWS, OR ANY OTHER FEDERAL, STATE OR LOCAL STATUTES, CODES, REGULATIONS OR ORDINANCES. TENANT ALSO ACKNOWLEDGES AND AGREES THAT TENANT'S INSPECTION AND INVESTIGATION OF THE DEMISED PREMISES HAVE BEEN ADEQUATE TO ENABLE TENANT TO MAKE TENANT'S OWN DETERMINATION WITH RESPECT TO THE SUITABILITY OR FITNESS OF THE DEMISED PREMISES, INCLUDING, WITHOUT LIMITATION, WITH RESPECT TO SOIL CONDITIONS, AVAILABILITY OF UTILITIES, DRAINAGE, ZONING LAWS, ENVIRONMENTAL LAWS, AND ANY OTHER FEDERAL, STATE OR LOCAL STATUTES, CODES, REGULATIONS OR ORDINANCES. TENANT ACKNOWLEDGES THAT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS SECTION ARE AN INTEGRAL PORTION OF THIS LEASE AND THAT LANDLORD WOULD NOT AGREE TO LEASE THE DEMISED PREMISES TO TENANT AS SET FORTH HEREIN WITHOUT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS SECTION. TENANT FURTHER ACKNOWLEDGES THAT TENANT IS NOT IN A DISPARATE BARGAINING POSITION WITH RESPECT TO LANDLORD. TENANT ACKNOWLEDGES AND AGREES FURTHER THAT THIS LEASE IS SUBJECT TO ANY AND ALL CURRENTLY EXISTING TITLE EXCEPTIONS OR OTHER MATTERS OF RECORD OR VISIBLE OR APPARENT FROM AN INSPECTION AFFECTING THE DEMISED PREMISES. TENANT WAIVES ANY IMPLIED WARRANTIES OF SUITABILITY, HABITABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, AND FURTHER WAIVES ALL CLAIMS BASED ON ANY DEFECT IN THE DEMISED PREMISES THAT COULD HAVE BEEN DISCOVERED BY TENANT'S REASONABLE INSPECTION. TENANT, AT ITS COST, SHALL BE ENTITLED TO PERFORM A PHASE I ENVIRONMENTAL STUDY, PROVIDING A COPY OF THE RESULTS TO LANDLORD. WITHOUT LIMITING THE FOREGOING, THERE IS NO WARRANTY, EXPRESS OR IMPLIED, OF SUITABILITY, MERCHANTABILITY, HABITABILITY, OR**

**FITNESS FOR ANY PARTICULAR PURPOSE GIVEN IN CONNECTION WITH THIS LEASE.**

In accepting the Demised Premises, Tenant acknowledges that this Lease shall be construed to provide Rent to Landlord on a Net Return Basis, as set out in Section 32, below.

**Section 8. Securing Governmental Approvals and Compliance with Law; Noise Abatement:**

A. Tenant at Tenant's sole cost and expense shall obtain any and all governmental licenses, permits and approvals necessary for the construction of improvements and for the use and occupancy of the Demised Premises. This Lease is subject to and Tenant shall comply at all times with all federal, state, and local laws, statutes, ordinances, rules, regulations, directives, orders, permits, standards, codes (including, without limitation, building codes and standards), zoning requirements, grant assurances, grant agreements, the Charter of the Town of Addison, all court orders, opinions and decisions, and all interpretations of the foregoing, of and by any governmental authority, entity, branch, or agency (including, without limitation, the Town of Addison, Texas, the State of Texas, the Federal Aviation Administration, the Texas Department of Transportation, the United States Environmental Protection Agency, and the Texas Commission on Environmental Quality, and any successor entities thereto) applicable or related to, whether directly or indirectly, this Lease, the Addison Airport, the Demised Premises, and the use and occupancy thereof, and whether in existence or hereafter enacted, adopted or imposed (collectively, "Laws," and "Law" means any of the foregoing). Tenant shall promptly comply with all governmental orders and directives and all other Laws for the correction, prevention and abatement of nuisances in or upon, or connected with, the Demised Premises, all at Tenant's sole cost and expense, and shall comply with and be subject to (and this Lease is made and entered into subject to) any and all grant agreements or grant assurances now existing or as hereafter agreed to, adopted or imposed and to the terms of a grant, loan, or agreement under Section 22.055 of the Texas Transportation Code (and as the same may be amended or superseded).

Tenant agrees that any new construction or modification of existing improvements on the Demised Premises will comply with all standards and rules published by the Landlord or by any person or entity authorized by Landlord to manage and/or operate the Airport or any portion thereof or any function related thereto (such person and or entity, whether one or more, being the "Airport Manager" or "Manager"), including, but not limited to, the Airport's published "Construction/Maintenance Standards and Specifications," will comply with the Town of Addison building codes and zoning requirements or any other laws, ordinances, permits, rules, regulations, or policies of the Town of Addison, Texas, and will meet or exceed all applicable State and Federal standards, permits, laws, rules, or regulations, and will otherwise comply with all Laws. Tenant recognizes that the referenced Construction/Maintenance Standards and Specifications, Town of Addison building codes and zoning requirements and other laws,

ordinances, permits, rules, regulations or policies, and all applicable State and Federal standards, laws, rules, or regulations, and any other Laws, may be modified or amended from time to time and that compliance will be measured by such standards in effect at the time of a particular construction or modification of improvements. Tenant will properly and timely submit to the Federal Aviation Administration, the Texas Department of Transportation, and any other governmental entity or agency having jurisdiction regarding or related to Addison Airport, a Notice of Proposed Construction, when and as required. Tenant further agrees that the Landlord shall be authorized at all times during any project of construction to enter upon the Demised Premises, and all parts thereof, in order to observe the performance of such construction, and Tenant agrees to provide the Landlord a construction schedule setting out the time of commencement, final completion and completion of significant elements of the construction, which schedule shall be delivered to Landlord prior to the start of any construction project on the Demised Premises. Failure of Tenant to observe and comply with any provision or requirement of this Section 8 shall be an Event of Default.

B. Tenant shall comply with noise abatement standards at the Airport at all times and shall notify any aircraft operator using any portion of the Demised Premises of such standards.

**Section 9. Assignment, Subletting and Mortgaging of Leasehold Estate;  
Stored Aircraft Information:**

A. 1. Without the prior written consent of Landlord, Tenant shall have no power to and shall not, either voluntarily or involuntarily, by operation of law or otherwise, (i) assign, sell, pledge, encumber, mortgage, license, transfer, or otherwise convey (each being referred to herein as "assign" or "assignment" and any person or entity to whom an assignment is made being an "assignee") this Lease, or any interest, rights, duties, liabilities, or obligations of Tenant hereunder, or any part of the Demised Premises, (except to a leasehold mortgagee as hereinbelow provided and in accordance with and subject to all of the terms and conditions of this Lease) or (ii) sublet the whole or any part of the Demised Premises, and any such assignment and any subletting shall be null and void and may be deemed by Landlord (in Landlord's sole discretion) a default under Section 23 of this Lease.

2. Notwithstanding the foregoing, Landlord hereby acknowledges and consents to Tenant's subletting of the Demised Premises for the purpose of renting aircraft storage and related office space only, provided that each sublease is evidenced by written agreement (to be made available for Landlord's review and inspection upon Landlord's written request within 3 business days), signed and executed by Tenant and sublessee and fairly states:

(i) each sublessee agrees to be bound by the terms and provisions of this Ground Lease, including, without limitation, the provisions of Section 6 pertaining to the use of the Demised Premises, and in the event of any conflict

between the terms of the Ground Lease and the terms of the sublease, the terms of the Ground Lease shall control;

- (ii) no such subletting shall constitute a novation;
- (iii) in the event of occurrence of an event of default while the Demised Premises are sublet, Landlord, in addition to any other rights or remedies provided herein or by law, in equity, or otherwise, may at Landlord's option, collect directly from such subtenant all rents becoming due under such subletting and apply such rent against any sums due to Landlord hereunder;
- (iv) sublessee shall be obligated to obtain Landlord's consent to any action as to which Tenant is obligated to obtain such consent under the Ground Lease;
- (v) any such sublease is to automatically terminate upon termination of the Ground Lease notwithstanding any other provision of the sublease to the contrary;
- (vi) Landlord shall have no responsibility or obligation for the performance by Tenant of its obligations under the sublease;
- (vii) neither this consent, the exercise by Landlord of its rights hereunder, nor the sublease or any other instrument shall give sublessee any rights directly or indirectly against Landlord or create or impose any obligation, duty, responsibility, or liability of Landlord in favor of or for the benefit of sublessee.

Furthermore, Tenant agrees that in no way does any sublease release Tenant from any of its covenants, agreements, liabilities and duties under the Ground Lease; that this consent does not constitute approval by Landlord of the terms of any such sublease; that nothing herein contained shall be deemed a waiver or release of any of the Landlord's rights under the Ground Lease; that Tenant shall remain fully liable for the performance of each and every term, provision, covenant, duty and obligation of the Tenant under the Ground Lease, including, without limitation, the duty to make any and all payments of Rent; that any violation of any terms and conditions of the Ground Lease by a sublessee will constitute a default under the Ground Lease.

3. If consent by Landlord to an assignment is required hereunder, Tenant shall request, in writing, Landlord's consent to a proposed assignment and such request must include (among other information and materials as Landlord may request): (i) the name of the proposed assignee; (ii) the nature and character of the assignee's business; (iii) all material terms of the proposed assignment; and (iv) audited financial statements or other evidence of the proposed assignee's creditworthiness and ability to assume Tenant's obligations.

For the purposes hereof and any applicable law, and without limitation as to other grounds for Landlord withholding consent, Landlord may, in Landlord's sole discretion, withhold its consent when any one or more of the following apply:

(i) the proposed assignee is of a character or of a reputation or is engaged in a business, which is not consistent with the master or strategic plan of Addison Airport as determined by Landlord;

(ii) the proposed assignee has not demonstrated sufficient financial responsibility or creditworthiness to the satisfaction of Landlord in light of the duties, obligations, and responsibilities of the Tenant under this Lease at the time when the consent is requested;

(iii) the proposed assignee's intended use of the Demised Premises is inconsistent with the Lease;

(iv) the proposed assignment would cause Landlord to be in violation of another lease or agreement to which Landlord is a party or to which Landlord or the Addison Airport is subject (including, without limitation, any grant agreements or grant assurances of the Federal Aviation Administration or any other governmental entity or agency);

(v) if at any time consent is requested or at any time prior to the granting of consent, Tenant is in default under the Lease or would be in default under the Lease but for the pendency of a grace or cure period; or

(vi) the proposed assignee does not intend to occupy the entire Demised Premises as described in the Lease and conduct its business there from for a substantial portion of the then remaining term of the Lease.

An assignment will be deemed to occur if the person or persons who own or have control of more than 50% of Tenant on the Effective Date of this Ground Lease cease to own or have control of more than 50% of Tenant at any time during the Term; provided that any such person shall have the unencumbered right to make from time to time gifts, sales or other transfers, upon death and/or *inter vivos*, of part or all of his or its ownership interest in the Tenant to a Permitted Transferee. A "Permitted Transferee" for purposes of this Lease, shall mean: (i) a person who is a parent or descendant of the transferor; (ii) a trust, the primary beneficiaries of which are relatives of the transferor as described in (i) above; (iii) an entity, the voting or financial control of which is owned by the transferor and/or his relatives as described in (i) above; and (iv) a trust, the primary beneficiary of which is such transferor; and such transfer shall not be considered an event deemed to be an "assignment" hereunder. Tenant shall provide to Landlord from time to time, as requested by Landlord and in a form acceptable to Landlord, a written certification as to the ownership and/or control of Tenant. For purposes hereof, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities or partnership interests, by contract, or otherwise.

Any assignment or subletting shall be expressly subject to all the terms and provisions of this Lease, including, without limitation, the provisions of Section 6 pertaining to the use of the Demised Premises. Tenant shall not assign this Lease or any right, duty, liability, or obligation of Tenant hereunder, or sublet the Demised Premises or any portion of the Demised Premises, without first obtaining a written agreement from each such assignee or sublessee whereby each such assignee or sublessee agrees to and

shall be bound by and comply with all of the terms and provisions of this Lease (and Tenant shall provide a copy of such written agreement to Landlord). No assignment or subletting shall constitute a novation. In the event of the occurrence of an event of default while the Demised Premises are assigned or sublet, Landlord, in addition to any other remedies provided herein or by law, in equity, or otherwise, may at Landlord's option, collect directly from such assignee or subtenant all rents becoming due under such assignment or subletting and apply such rent against any sums due to Landlord hereunder. No direct collection by Landlord from any such assignee, transferee, pledgee, or person or entity to whom this Lease is otherwise conveyed or to such subtenant shall release Tenant from the payment or performance of Tenant's obligations hereunder.

Upon written request, Tenant shall promptly provide to Landlord the names and addresses of any subtenants and the make, model, aircraft type and "N" number of any aircraft stored, located or generally regarded to be "based" on or in the Demised Premises.

**B.** Tenant shall have the right to mortgage the leasehold estate of Tenant created hereby in order to secure a mortgage loan for the purpose of (i) obtaining funds for the construction of the improvements described in Section 6, or (ii) for other construction upon the Demised Premises approved from time to time by Landlord in writing, or (iii) for other purposes which may be approved from time to time by Landlord in writing. In the event that Tenant, pursuant to mortgages or deeds of trust, mortgages the leasehold estate of Tenant created hereby, the leasehold mortgagee shall in no event become personally liable to perform the obligations of Tenant under this Lease unless and until said mortgagee becomes the owner of the leasehold estate pursuant to foreclosure, transfer in lieu of foreclosure, or otherwise, and thereafter said leasehold mortgagee shall remain liable for such obligations only so long as such mortgagee remains the owner of the leasehold estate. Notwithstanding the foregoing, it is specifically understood and agreed that no such mortgaging by Tenant and/or any actions taken pursuant to the terms of such mortgage shall ever relieve Tenant of Tenant's obligation to pay the rental due hereunder and otherwise fully perform the terms and conditions of this Lease.

**C.** Landlord further agrees to execute and deliver to any proposed leasehold mortgagee of Tenant a "Non-Disturbance Agreement" wherein Landlord agrees that Landlord will (i) recognize such mortgagee and its successors and assigns after foreclosure, or transfer in lieu of foreclosure, as Tenant hereunder, and (ii) continue to perform all of Landlord's obligations hereunder so long as such mortgagee or its successors and assigns performs all of the obligations of Tenant hereunder; provided, however, that notwithstanding the foregoing or any other provision of this Lease, such mortgagee shall not and does not have the right and shall not and does not have the power to assign, sell, transfer, pledge, encumber, mortgage, license, or otherwise convey this Lease, or any right, interest, obligation, or liability hereunder, or any part of the Demised Premises, or sublet the whole or any part of the Demised Premises without the prior written approval of the Landlord, and any such assignment, sale, transfer, pledge, encumbrance, mortgage, license, or other conveyance and any such subletting without the

prior written consent of Landlord shall be null and void and may be deemed a default under Section 22.B. of this Lease, it being the intent of this provision that such mortgagee shall have no greater right than Tenant to assign, sell, transfer, pledge, encumber, mortgage, license, or otherwise convey this Lease (or any right, interest, obligation, or liability hereunder), or to sublet the Demised Premises (or any portion thereof), or to use the Demised Premises. Landlord also agrees to consider the execution and delivery to such proposed leasehold mortgagee any other documents which such proposed leasehold mortgagee may reasonably request concerning the mortgaging by Tenant of the leasehold estate created hereby; provided, however, that Landlord shall never be required to subordinate Landlord's interest in the Demised Premises to the mortgagee of such proposed leasehold mortgage.

#### **Section 10. Property Taxes and Assessments:**

A. Tenant shall pay, before they become delinquent, any and all property taxes or assessments, and any other governmental charges, fees or expenses (collectively, the "Taxes"), levied or assessed on any improvements on the Demised Premises, the personal property and fixtures on the Demised Premises, and, if applicable, upon the leasehold estate of Tenant created hereby. Upon the request of Landlord, Tenant shall from time to time furnish to Landlord "paid receipts" or other written evidence that all such Taxes have been paid by Tenant. In the event Tenant fails to pay any such Taxes, Landlord shall have the right (but not the obligation) to pay or cause to be paid such Taxes, and the reasonable costs thereof expended by or caused to be expended by Landlord plus interest thereon as provided in Section 37 of the Ground Lease shall be paid by Tenant on demand.

B. If any buildings or other improvements located upon the Demised Premises are determined to be subject to property taxation by the Dallas Central Appraisal District (or any successor entity or agency thereto or other agency with the authority to make such determination) ("DCAD"), Tenant may, in accordance with law, contest the DCAD valuation of such buildings and/or improvements, but shall not contest the determination that the buildings and/or improvements are subject to taxation. Notwithstanding the foregoing, if a determination is rendered by DCAD or a court of appropriate and competent jurisdiction that any such buildings or other improvements are not subject to property taxation (the "non-taxable determination"), the Base Rent (as the same may be adjusted) for the year in which such final determination becomes effective shall be increased by an amount equal to the property tax revenue from such buildings and improvements that Tenant would have paid to the Town of Addison, Texas in that year but for such final determination (the "Extra Base Rent") (and such initial increased amount shall be paid to Landlord on or before December 31 of such year, unless otherwise agreed to by Landlord); thereafter, the Base Rent (as the same may be adjusted) as so increased shall continue, subject to adjustment as set forth in this Lease.

If a non-taxable determination is reversed by a court of appropriate and competent jurisdiction and the reversal cannot be appealed (so that the buildings or other improvements located upon the Demised Premises are finally determined to be subject to

property tax), Landlord shall (at Landlord's option) either repay to Tenant the Extra Base Rent or credit the amount paid by Tenant against future payments of Base Rent, it being the intent that Landlord shall not receive Extra Base Rent and an equivalent amount of property tax.

**Section 11. Maintenance and Repair of Demised Premises:**

A. Tenant shall, throughout the term hereof, maintain in good repair and in a first class condition (in accordance with any construction and/or maintenance standards and specification established by Landlord or Manager and all applicable ordinances, rules and regulations of the Town of Addison, Texas) all the Demised Premises and all fixtures, equipment and personal property on the Demised Premises and keep them free from waste or nuisance and, at the expiration or termination of this Lease, deliver up the Demised Premises clean and free of trash and in good repair and condition, with all fixtures and equipment situated in the Demised Premises in good working order, reasonable wear and tear excepted. Tenant shall reimburse Landlord for and indemnify Landlord against all damages, which Landlord incurs from Tenant's delay in vacating the Demised Premises.

B. Tenant's failure to keep the Demised Premises and all fixtures, equipment and personal property situated thereon in good condition required by this Section is a default under this Lease. In the event Tenant shall fail to so maintain the Demised Premises and the fixtures, equipment and personal property situated thereon, in addition to its remedies under Section 23 herein, Landlord shall have the right (but not the obligation) to cause all repairs or other maintenance to be made and the reasonable costs therefore expended by Landlord plus interest thereon as provided in Section 39 shall be paid by Tenant on demand.

**Section 12. Alterations, Additions and Improvements:**

A. After completion of the Building Improvements described in Section 6, Tenant shall not create any openings in the roof or exterior walls, or make any alterations, additions or improvements to the Demised Premises or any improvements thereon or modifications thereto without the prior written consent of Landlord or Manager. Consent for non-structural alterations, additions or improvements shall not be unreasonably withheld by Landlord or Manager. Tenant shall have the right to erect or install shelves, bins, machinery, air conditioning or heating equipment and trade fixtures, provided that Tenant complies with all applicable governmental laws, ordinances and regulations (including, without limitation and as may be required by law, obtaining a building permit).

B. All alterations, modifications, additions and improvements in and to the Demised Premises shall be performed in a good and workmanlike manner, shall comply with all the standards and requirements set out, above, in Section 6 and Section 8, and Tenant shall promptly pay and discharge all costs, expenses, claims for damages (including consequential damages), liens and any and all other liabilities and obligations which arise in connection therewith (and shall defend, indemnify, and hold harmless Landlord and

Manager, and their respective officials, officers, employees, and agents, from and against any and all such costs, expenses, claims, liens, liabilities, and obligations as set forth in Section 6).

**Section 13. Insurance; Bonds:**

A. At all times Tenant shall during the Term hereof purchase and maintain at Tenant's sole cost and expense and in a company or companies lawfully authorized to do business in Texas such insurance relating to the Demised Premises as follows:

1. Insurance against loss or damage to improvements by fire, lightning, and all other risks from time to time included under standard extended coverage policies, and sprinkler, vandalism and malicious mischief, all in amounts sufficient to prevent Landlord or Tenant from becoming co-insurers of any loss under the applicable policies but in any event in amounts not less than one hundred percent (100%) of the full insurable value of the Demised Premises and any and all improvements thereon. The term "full insurable value" as used herein means actual replacement value at the time of such loss. Upon request, such replacement value shall be determined by a qualified appraiser, a copy of whose findings shall be submitted to Landlord, and, thereafter, proper adjustment in the limits of insurance coverage shall be effected.

2. Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$1,000,000 general aggregate for bodily injury, death or property damage or destruction occurring on, in or about the Demised Premises, which coverage shall include products/completed operations (\$1,000,000 products/completed operations aggregate). Coverage for products/completed operations must be maintained for at least two (2) years after construction work has been completed. Coverage must be amended to provide for an each-project aggregate limit of insurance. Coverage must include contractual liability.

3. Statutory limits of workers compensation insurance and employer's liability with limits of liability of not less than \$1,000,000.00 each-occurrence each accident/\$1,000,000.00 by disease each-occurrence/\$1,000,000.00 by disease aggregate.

4. If applicable, boiler and pressure vessel insurance on all steam boilers, parts thereof and appurtenances attached or connected thereto which by reason of their use or existence are capable of bursting, erupting, collapsing, imploding or exploding, in the minimum amount of \$500,000.00 for damage to or destruction of property resulting from such perils.

5. Hangarkeepers Legal Liability insurance, at limits of \$1,000,000.00 per-occurrence is required if Tenant is engaged in maintenance, repair, or servicing of aircraft belonging to a third-party, or if Tenant is otherwise involved in any operation in which Tenant has care, custody, or control of an aircraft that belongs to a third-party.

6. Aircraft liability insurance against third party bodily injury or death and property damage or destruction at minimum limits required by regulatory agencies having jurisdiction at the Airport and which are acceptable to Landlord, but in any event not less than \$1,000,000.00 each occurrence (applies to the ownership, operation or use of aircraft by Tenant or any subtenant).

Tenant shall cause all such policies of insurance to comply with the following and be specifically endorsed as follows:

(i) The Town of Addison, Texas, and the Airport Manager and their respective past and present officials, officers, employees and agents shall be named as additional insureds;

(ii) All insurance policies which name the Town of Addison, Texas and the Airport Manager (and their respective past and present officials, officers, employees and agents) as additional insureds must be endorsed to read as primary coverage regardless of the application of other insurance;

(iii) A waiver of subrogation in favor of the Town of Addison, Texas and the Airport Manager (and their respective past and present officials, officers, employees and agents) shall be contained in each policy required herein;

(iv) All insurance policies shall be endorsed to the effect that the Town of Addison, Texas and the Airport Manager will receive at least sixty (60) days written notice prior to cancellation or non-renewal of the insurance (except that if such insurance is canceled for non-payment of premium, such notice shall be ten (10) days);

(v) All liability policies shall contain no cross liability exclusions or insured versus insured restrictions applicable to the claims of the Town of Addison or the Airport Manager;

(vi) Tenant may maintain reasonable and customary deductibles; and

(vii) Insurance must be purchased from insurers that are financially acceptable to Landlord and licensed to do business in the State of Texas.

All insurance must be written on forms filed with and approved by the Texas Department of Insurance. Certificates of insurance, satisfactory to Landlord, shall be prepared and executed by the insurance company or its authorized agent, promptly delivered to Landlord and updated as may be appropriate, and shall:

(i) List each insurance coverage described and required herein. Such certificates will also include a copy of the endorsements necessary to meet the requirements and instructions contained herein; and

(ii) Specifically set forth the notice of cancellation or termination provisions to the Town of Addison and the Airport Manager.

Upon request, Tenant shall furnish Landlord with complete copies of all insurance policies certified to be true and correct by the insurance carrier. Landlord reserves the right to review the insurance requirements contained herein and to reasonably adjust coverages and limits when deemed necessary and prudent by Landlord.

B. In connection with any construction on the Demised Premises, Tenant shall obtain and keep in full force and effect at its sole cost and expense:

(i) Builder's Risk Completed Value Policy with an all risks endorsement in an amount equal to the greater of the full-completed value or the amount of the construction contract including any amendments or change orders thereto. The policy shall provide "All Risk" Builder's Risk Insurance (extended to include the perils of wind, collapse, vandalism/malicious mischief, and theft, including theft of materials whether or not attached to any structure).

(ii) Performance Bond and a Payment Bond guaranteeing, respectively, the faithful performance of all construction work and the payment of all obligations arising during the construction (including, without limitation, the payment of all persons performing labor or providing materials under or in connection with the Building Improvements), in the penal sum of one-hundred percent (100%) of the Construction Costs. Tenant shall pay or cause to have paid the premiums for such bonds. Bonds shall be issued by a surety company satisfactory to the Landlord, licensed by the State of Texas to act as a Surety, and listed on the current U.S. Treasury Listing of Approved Sureties. All forms shall be made on a form complying with the requirements of the laws of the State of Texas and satisfactory to Landlord. Such bonds shall be in conformance with the provisions of Chapter 2253, Tex. Gov. Code, and any successor statute thereto.

#### **Section 14. Casualty Damage or Destruction:**

A. In case of any damage to or destruction of the buildings, structures, equipment, or any other improvements on or at the Demised Premises (including the Building Improvements), or any part thereof, Tenant will promptly give written notice thereof to Landlord, generally describing the nature and extent of such damage and/or destruction.

B. In case of any damage to or destruction of any building, structure, equipment, or other improvements (including the Building Improvements) on or at the Demised Premises, or any part thereof, Tenant, whether or not the insurance proceeds, if any, payable on account of such damage and/or destruction shall be sufficient for such purpose, at Tenant's sole cost, risk and expense will promptly and diligently commence and complete the restoration, repair and replacement of said building, structure, equipment, or other improvements as nearly as possible to their value, condition and

character immediately prior to such damage and/or destruction and with at least as good workmanship and quality as such building, structure, equipment, or other improvements on or at the Demised Premises being repaired or replaced, with such alterations in and additions thereto as may be approved in writing by Landlord (hereinafter sometimes referred to as the "Restoration"). All Restoration plans (whether design, architectural, or otherwise) shall be approved in writing by Landlord prior to the commencement of construction. All such design and construction shall comply with other Sections of this Lease concerning the design and construction of buildings and other improvements on or at the Demised Premises, including without limitation Sections 6, 8, and 13 hereof.

C. All insurance proceeds, if any, payable on account of such damage to or destruction of the buildings, structures and equipment on the Demised Premises shall be held by Landlord. Landlord shall be protected in acting upon any certificate believed by Landlord to be genuine and to have been executed by the proper party and shall receive such certificate as conclusive evidence of any fact or as to any matter therein set forth. Such certificate shall be full warranty, authority and protection to Landlord in acting thereon, and Landlord shall be under no duty to take any action other than as set forth in this Section 14.

D. Insurance proceeds received by Landlord on account of any damage to or destruction of the buildings, structures and equipment on the Demised Premises, or any part thereof (less the costs, fees and expenses incurred by Landlord and Tenant in the collection thereof, including, without limitation, adjuster's and attorney's fees and expenses ("Net Insurance Proceeds")) shall be applied as follows:

- (i) Net insurance proceeds as above defined shall be paid to Tenant or as Tenant may direct from time to time as Restoration progresses to pay (or reimburse Tenant for) the cost of Restoration, upon written request of Tenant to Landlord accompanied by (a) certificate of a supervising architect or engineer approved by Landlord, describing in reasonable detail the work and material in question and the cost thereof, stating that the same were necessary or appropriate to the Restoration and constitute a complete part thereof, and that no part of the cost thereof has theretofore been reimbursed, and specifying the additional amount, if any, necessary to complete the Restoration, and (b) an opinion of counsel satisfactory to Landlord that there exist no mechanics', materialmen's or similar liens for labor or materials except such, if any, as are discharged by the payment of the amount requested.
- (ii) Upon receipt by Landlord of evidence of the character required by the foregoing clauses (i)(a) and (b) that Restoration has been completed and the cost thereof paid in full, and that there are no mechanics', materialmen's or similar liens for labor or materials supplied in connection therewith, the balance, if any, of such proceeds shall be paid to Tenant or as Tenant may direct.

E. In the event that Tenant does not promptly commence Restoration, or after commencement Tenant does not diligently proceed to the completion of same, Landlord shall have the right to commence or complete Restoration. Landlord's right to commence or complete Restoration shall begin after Landlord has given Tenant at least thirty (30) days written notice requesting (i) the commencement of Restoration, or (ii) that Tenant diligently proceed to the completion of Restoration, and Tenant during such thirty (30) day period fails to commence or fails to proceed to diligently complete Restoration. In such event, Landlord shall be entitled to obtain the insurance proceeds, and Tenant shall promptly pay any deficiency if such proceeds are not sufficient for Restoration.

F. In the event of termination of this Lease by Landlord as a result of Tenant's failure to commence or complete (as the case may be) the Restoration, this Lease shall terminate and come to an end upon Landlord's termination as aforesaid as though the date of such termination by Landlord were the date of expiration of the term of this Lease, and all insurance proceeds shall be paid to Landlord.

#### **Section 15. Condemnation:**

A. If during the term hereof, any part of the Demised Premises shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, or are sold to a condemning authority under threat of condemnation, and after such taking by or sale to said condemning authority the remainder of the Demised Premises is not susceptible to efficient and economic occupation and operation by Tenant, this Lease shall automatically terminate as of the date that said condemning authority takes possession of the Demised Premises, and Landlord shall refund to Tenant any prepaid but unaccrued rental less any sum then owing by Tenant to Landlord.

B. If after such taking by or sale to said condemning authority the remainder of the Demised Premises is susceptible to efficient and economic occupation and operation by Tenant, this Lease shall not terminate but the rental due hereunder shall be adjusted so that Tenant shall be required to pay for the remainder of the term hereof the sum obtained by multiplying each monthly rental installment due hereunder, as adjusted from time to time pursuant to Section 4, by a fraction, the numerator of which shall be the number of square feet remaining in the Demised Premises after the taking by or sale to said condemning authority and denominator of which shall be the square footage originally contained in the Demised Premises. The rental adjustment called for herein shall not commence until said condemning authority actually takes possession of the condemned portion of the Demised Premises.

C. If this Lease is not terminated pursuant to Section 15.A., above, Tenant shall promptly restore any building and any other improvements on the Demised Premises, and the condemnation proceeds to which Landlord and Tenant are entitled shall be awarded and paid first to cover the costs and expenses for restoring the remaining portion of the Demised Premises to a condition susceptible to efficient and economic occupation and operation by Tenant, and any remaining proceeds to which Landlord and Tenant are entitled shall be awarded and paid to Landlord and Tenant, as their interest

may appear. If this Lease is terminated pursuant to Section 15.A., condemnation proceeds to which Landlord and Tenant are entitled shall be awarded and paid to Landlord and Tenant as their interests may appear.

**Section 16. Utilities:** Tenant shall be responsible at Tenant's sole cost and expense for obtaining all utility connections at or for the Demised Premises and Tenant shall pay all charges for water, electricity, gas, sewer, telephone or any other utility connections, tap-in fees, impact fees, and services furnished to the Demised Premises during the term hereof. Tenant agrees to contact all utility service providers prior to any excavation or digging on the Demised Premises. Landlord shall in no event be liable or responsible for any cessation or interruption in any such utility services.

**Section 17. Common Facilities:** Tenant and Tenant's employees, agents, servants, customers and other invitees shall have the non-exclusive right to use all common facilities, improvements, equipment and services which may now exist or which may hereafter be provided by Landlord for the accommodation and convenience of Landlord's customers and tenants, including landing and takeoff facilities, means of ingress and egress to the Demised Premises, other Airport installations, and all other reasonable services which may be provided with or without charge from time to time by Landlord in operating the Airport ("Common Facilities"). All such Common Facilities shall at all times be under the exclusive control, operation and management of Landlord and may be rearranged, modified, changed, altered, removed, or terminated from time to time at Landlord's sole discretion.

**Section 18. Rules and Regulations:** Landlord has adopted *Addison Airport Minimum Standards and Requirements for Commercial Aeronautical Service Providers* (also commonly referred to as the "Minimum Standards" or "Airport Minimum Standards") and *Addison Airport Rules and Regulations* (also commonly referred to as the "Rules and Regulations" or "Airport Rules and Regulations"), which shall govern Tenant in the use of the Demised Premises and all Common Facilities, a copy of which has been furnished to Tenant. The Minimum Standards and Rules and Regulations are incorporated by reference as if written verbatim herein, and Tenant agrees to comply fully at all times with these governing documents. Landlord, in its sole discretion, shall have the right to amend, modify and alter these Minimum Standards and Rules and Regulations from time to time in any manner or may introduce other regulations as deemed necessary for the purpose of assuring the safety, welfare, convenience and protection of property of Landlord, Tenant and all other tenants and customers of the Airport.

**Section 19. Signs and Equipment:** After first securing Landlord's approval, Tenant shall have the right from time to time to install and operate signs depicting Tenant's name and operate radio, communications, meteorological, aerial navigation and other equipment and facilities in or on the Demised Premises that may be reasonably necessary for the operation of Tenant's business, provided such signs and equipment are installed and maintained in compliance with all applicable governmental laws, rules, and regulations, including the City sign ordinance, and do not interfere with the operation of any navigation facilities or Airport communications (including, without limitation, navigation facilities or Airport communications used or operated by the Federal Aviation Administration).

**Section 20. Landlord's Right of Entry:** Landlord and Landlord's authorized representatives shall have the right, during normal business hours, to enter the Demised Premises (i) to inspect the general condition and state of repair thereof, (ii) to make repairs permitted under this Lease, (iii) to show the Demised Premises to any prospective tenant or purchaser or (iv) for any other reasonable and lawful purpose.

During the final one hundred eighty (180) days of the term hereof, Landlord and Landlord's authorized representatives shall have the right to erect and maintain on or about the Demised Premises customary signs advertising the Demised Premises for lease.

**Section 21. Indemnity and Exculpation, Release:**

A. **Exculpation.** The Town of Addison, Texas and all other Addison Persons and the Manager Persons (for purposes of this subparagraph A, as the terms "Addison Persons" and "Manager Persons" are defined in Subsection B below), shall not be liable to Tenant or to any Tenant Persons (for purposes of this subparagraph A, as the term "Tenant Persons" is defined in Subsection B below), or to any other person whomsoever, for any death or injury to persons or damage to or destruction of property or any other harm on or about the Demised Premises or any adjacent area owned by Landlord caused by or resulting from any act or omission of Tenant or any Tenant Persons or any other person entering the Demised Premises under express or implied invitation of Tenant or any Tenant Persons, or arising out of the use or occupation of the Demised Premises by Tenant or by any Tenant Persons, in the performance of Tenant's obligations hereunder.

B. **TENANT'S INDEMNITY OBLIGATION.** Tenant agrees to and shall fully DEFEND (with counsel reasonably acceptable to Landlord), INDEMNIFY AND HOLD HARMLESS (i) the Town of Addison, Texas, and the elected and appointed officials, the officers, employees, agents, representatives, and volunteers of the Town of Addison, Texas, individually or collectively, in both their official and private capacities (the Town of Addison, Texas, and the elected and appointed officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas each being an "Addison Person" and collectively the "Addison Persons") and (ii) Airport Manager and Airport Manager's owners, officers, employees and agents (Airport Manager and Airport Manager's owners, officers, employees and agents each being a "Manager Person" and collectively the "Manager Persons"), from and against any and all claims, actions, proceedings, causes of action, demands, losses, liens, harm, damages, penalties, fines, liabilities, expenses, lawsuits, judgments, costs, and fees (including reasonable attorney fees and court costs) of any kind and nature whatsoever made upon, incurred by, suffered by, or asserted against any Addison Person or any Manager Person or the Demised Premises, whether directly or indirectly, (collectively for purposes of this Section, "Damages"), that result from, relate to, or arise out of, in whole or in part, (i) any condition of the Demised Premises caused in whole or in part by Tenant or by any of Tenant's owners, directors, shareholders, partners, managers, officers,

employees, agents, representatives, engineers, consultants, contractors, subcontractors, tenants, licensees, invitees, patrons, concessionaires, or any other person or entity for whom Tenant is legally responsible, and their respective owners, directors, shareholders, partners, officers, managers, employees, agents, representatives, engineers, consultants, contractors, subcontractors, tenants, licensees, invitees, patrons, and concessionaires, or any other person acting by or under the authority or with the permission of Tenant, Tenant's tenants, or any other person entering the Demised Premises under express or implied invitation of Tenant during the Lease Term (collectively, "Tenant Persons"), (ii) any construction on or repair to the Demised Premises, or the Demised Premises becoming out of repair due to the fault of Tenant or any Tenant Persons, for any reason including by failure of equipment, pipes, or wiring, or broken glass, or by the backing up of drains, or by gas, water, steam, electricity or oil leaking, escaping or flowing into the Demised Premises, regardless of the source, or by dampness or by fire, explosion, falling plaster or ceiling, (iii) representations or warranties by Tenant under this Lease, and/or (iv) any act or omission of Tenant or any Tenant Persons under, in connection with, or in the performance of, this Lease. SUCH DEFENSE, INDEMNITY, AND HOLD HARMLESS OBLIGATION SHALL AND DOES INCLUDE DAMAGES ALLEGED OR FOUND TO HAVE BEEN CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF THE TOWN OF ADDISON, TEXAS, ANY OTHER ADDISON PERSON, THE AIRPORT MANAGER, OR ANY OTHER MANAGER PERSON, OR BY ANY ACT OR OMISSION BY THE TOWN OF ADDISON, TEXAS, ANY OTHER ADDISON PERSON, THE AIRPORT MANAGER, OR ANY OTHER MANAGER PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND. However, Tenant's liability under this clause shall be reduced by that portion of the total amount of the Damages (excluding defense fees and costs) equal to the Addison Person or Addison Persons', or Manager Person or Manager Persons', (as the case may be) proportionate share of the negligence, or conduct that would give rise to strict liability of any kind, that caused the loss. Likewise, Tenant's liability for any Addison Person's or any Manager Person's defense costs and attorneys' fees shall be reduced by that portion of the defense costs and attorneys' fees equal to Addison Person or Addison Persons', or Manager Person or Manager Persons', (as the case may be) proportionate share of the negligence, or conduct that would give rise to strict liability of any kind, that caused the loss.

Tenant shall promptly advise Landlord in writing of any claim or demand against the Town of Addison, any other Addison Person, any Manager Person, or Tenant or any Tenant Person related to or arising out of Tenant's activities under this Lease and shall see to the investigation and defense of such claim or demand at Tenant's sole cost and expense. The Addison Persons and Manager Persons, as the case may be, shall have the right, at the Addison Persons' or Manager Persons' (as the case may be) option and at their own expense, to participate in such defense without relieving Tenant of any of its obligations hereunder.

C. Release. Tenant hereby **RELEASES** the Town of Addison, Texas and all other Addison Persons (as the term "Addison Persons" is defined in subsection B. of this Section) and Airport Manager and all other Manager Persons (as the term "Manager Persons" is defined in subsection B. of this Section) from, and agrees that the Town of Addison, Texas and all other Addison Persons, and Airport Manager and all other Manager Persons, shall not be liable to Tenant or any Tenant Persons (as the term "Tenant Persons" is defined in subsection B. of this Section) for (i) any death or injury to any person or persons or damage to or destruction of property of any kind resulting from the Demised Premises becoming out of repair or by defect in or failure of equipment, pipes, or wiring, or broken glass, or by the backing up of drains, or by gas, water, steam, electricity or oil leaking, escaping or flowing into the Demised Premises, regardless of the source, or by dampness or by fire, explosion, falling plaster or ceiling or for any other reason whatsoever, and for (ii) any loss or damage that may be occasioned by or through the acts or omissions of other tenants of Landlord or caused by operations in construction of any private, public or quasi-public work.

D. The provisions of this section 21 shall survive the expiration or termination of this Lease.

## **Section 22. Environmental Compliance:**

A. Tenant shall not install, store, use, treat, transport, discharge or dispose (or permit, allow, or acquiesce in the installation, storage, use, treatment, transportation, discharge or disposal by Tenant's owners, directors, shareholders, partners, managers, officers, employees, agents, representatives, engineers, consultants, contractors, subcontractors, tenants, licensees, invitees, patrons, concessionaires, or any other person or entity for whom Tenant is legally responsible, and/or their respective owners, directors, shareholders, partners, officers, managers, employees, agents, representatives, engineers, consultants, contractors, subcontractors, tenants, licensees, invitees, patrons, and concessionaires) on the Demised Premises or any portion of the common facilities (described in Section 17) any: (a) asbestos in any form; (b) urea formaldehyde foam insulation; (c) transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of 50 parts per million; or (d) any other chemical, material, air pollutant, toxic pollutant, waste, or substance which is regulated as toxic or hazardous or exposure to which is prohibited, limited or regulated by the Resource Conservation Recovery Act (42 U.S.C. §6901, et seq., as amended or superseded), the Comprehensive and Environmental Response Compensation and Liability Act (42 U.S.C. §9601, et seq., as amended or superseded), the Hazardous Materials Transportation Act, the Toxic Substances Control Act, the Clean Air Act, and/or the Clean Water Act or any other federal, state, county, regional, local or other governmental authority law, rule, regulation, order, standard, permit, directive or policy, or which, even if not so regulated may or could pose a hazard to the health and safety of the occupants of the Demised Premises and/or any portions of the common facilities, and which is either: (i) in amounts in excess of that permitted or deemed safe under any applicable law, rule, regulation, order, standard, permit, directive or policy, or (ii) in any manner prohibited or deemed unsafe under applicable law, rule, regulation, order,

standard, permit, directive or policy. (The substances referred to in (a), (b), (c) or (d) herein are collectively referred to hereinafter as "Hazardous Materials").

**B. Cleanup Laws; Tenant's Indemnity Obligation.**

1. Tenant shall, at Tenant's own expense, comply with any presently existing or hereafter enacted laws, rules, regulations, orders, standards, directives, permits, or notices relating to Hazardous Materials (collectively, "Cleanup Laws"). In furtherance and not in limitation of the foregoing, Tenant shall, at Tenant's own expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Authority") under the Cleanup Laws. Should any Authority require that a cleanup plan be prepared and that a cleanup be undertaken because of the existence of Hazardous Materials which were installed, stored, used, treated, transported, disposed of or discharged on the Demised Premises and/or any portion of the common facilities (as described in Paragraph 17) by (i) Tenant, or by (ii) any of Tenant's owners, directors, shareholders, partners, managers, officers, employees, agents, representatives, engineers, consultants, contractors, subcontractors, tenants, licensees, invitees, patrons, concessionaires, or any other person or entity for whom Tenant is legally responsible, and/or their respective owners, directors, shareholders, partners, officers, managers, employees, agents, representatives, engineers, consultants, contractors, subcontractors, tenants, licensees, invitees, patrons, and concessionaires, or by (iii) any person acting by or under the authority or with the permission of Tenant, Tenant's tenants, or any other person entering the Demised Premises under express or implied invitation of Tenant during the Term of this Lease, Tenant shall, at Tenant's own cost and expense, prepare and submit the required plans and financial assurances and carry out the approved plans in accordance with such Cleanup Laws and to Landlord's satisfaction. At no cost or expense to Landlord, Tenant shall promptly provide all information requested by Landlord for preparation of affidavits or other documents required by Landlord to determine the applicability of the Cleanup Laws to the Demised Premises and/or any portion of the common facilities, as the case may be, and shall sign the affidavits promptly when requested to do so by Landlord.

**2. Tenant's Indemnity Obligation. Without limiting any other indemnity, hold harmless, and defense obligation of Tenant set forth in this Lease, Tenant agrees to and shall fully DEFEND (with counsel reasonably acceptable to Landlord), INDEMNIFY, AND HOLD HARMLESS the Town of Addison, Texas and all other Addison Persons (as the term "Addison Persons" is defined in subsection B of Section 21, above), and the Manager Persons (as the term "Manager Persons" is defined in subsection B of Section 21, above), from and against, and reimburse the Town of Addison, Texas, all other Addison Persons, the Airport Manager and all other Manager Persons (as the case may be) for, any and all obligations, damages, injunctions, fines, penalties, demands, claims, costs, fees, charges, expenses, actions, causes of action, judgments, liabilities, suits, proceedings, harm, and losses of whatever kind or nature (including, without limitation, attorneys' fees and court costs), and all cleanup or removal costs and all actions of any kind arising out of or in any way connected with the installation, storage, use,**

treatment, transporting, disposal or discharge of Hazardous Materials in, on, under, above, or to the Demised Premises and/or any portion of the common facilities or any portion of the Airport or adjacent properties by Tenant or by any Tenant Persons (as the term "Tenant Persons" is defined in subsection B of Section 21, above); and from all fines, penalties, suits, judgments, procedures, proceedings, claims, actions, and causes of action of any kind whatsoever arising out of Tenant's or any of Tenant Persons' failure to provide all information, make all submissions and take all steps required by the Authority under the Cleanup Laws or any other law, rules, regulation, standard, order, or policy (environmental or otherwise) (collectively, "Environmental Damages"). **SUCH DEFENSE, INDEMNITY, AND HOLD HARMLESS OBLIGATION SHALL AND DOES INCLUDE ENVIRONMENTAL DAMAGES ALLEGED OR FOUND TO HAVE BEEN CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF THE TOWN OF ADDISON, TEXAS, ANY OTHER ADDISON PERSONS, THE AIRPORT MANAGER OR ANY OTHER MANAGER PERSONS, OR BY ANY ACT OR OMISSION OF OR BY THE TOWN OF ADDISON, TEXAS, ANY OTHER ADDISON PERSONS, THE AIRPORT MANAGER OR ANY OTHER MANAGER PERSONS THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.** However, Tenant's liability under this clause shall be reduced by that portion of the total amount of the Environmental Damages (excluding defense fees and costs) equal to the Addison Person or Addison Persons', or Manager Person or Manager Persons', (as the case may be) proportionate share of the negligence, or conduct that would give rise to strict liability of any kind, that caused the loss. Likewise, Tenant's liability for any Addison Person's or any Manager Person's defense costs and attorneys' fees shall be reduced by that portion of the defense costs and attorneys' fees equal to Addison Person or Addison Persons', or Manager Person or Manager Persons', (as the case may be) proportionate share of the negligence, or conduct that would give rise to strict liability of any kind, that caused the loss.

Tenant's obligations and liabilities under this subparagraph shall continue (and survive the termination or expiration of this Lease) so long as there may be Hazardous Materials at the Demised Premises and/or any portion of the common facilities or any portion of the Airport or adjacent properties, that were installed, stored, used, treated, transported, disposed of or discharged during the Lease Term by Tenant or any of Tenant Persons. In addition to and not in limitation of Landlord's other rights and remedies, Tenant's failure to abide by the terms of this Section shall be restrainable by injunction.

C. Tenant shall promptly supply Landlord and Airport Manager with copies of any notices, correspondence and submissions made by Tenant to or received by Tenant from any governmental authorities of the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, the FAA, TxDOT, or any other local, state or federal authority that requires submission of any information concerning environmental matters or Hazardous Materials.

D. Tenant's obligations and liability pursuant to the terms of this Section 22 shall survive the expiration or earlier termination of this Lease.

**Section 23. Default by Tenant:** Each of the following events shall be deemed to be an event of default by Tenant under this Lease:

A. Failure of Tenant to pay any installment of Rent or any other sum payable to Landlord hereunder, or to pay or cause to be paid taxes (to the extent Tenant is obligated to pay or cause same to be paid), utilities, or insurance premiums, or any other payment which Tenant is to make under this Lease, on the date that same is due and such failure shall continue for a period of ten (10) days after the date on which such payment is to be made.

B. Failure of Tenant to comply with any term, condition or covenant of this Lease (other than the payment of Rent or other sum of money, or the payment of taxes, utilities or insurance premiums, or other payments Tenant is to make under this Lease, as set forth in Subsection A. of this Section 23) and such failure shall not be cured within thirty (30) days after written notice thereof to Tenant.

C. Insolvency, the making of a transfer in fraud of creditors, or the making of an assignment for the benefit of creditors by Tenant or any guarantor of Tenant's obligations.

D. Filing of a petition under any section or chapter of the United States Bankruptcy Code, as amended, or under any similar law or statute of the United States or any State thereof by Tenant or any guarantor of Tenant's obligations, or adjudication as a bankrupt or insolvent in proceedings filed against Tenant or such guarantor.

E. Appointment of a receiver or trustee for all or substantially all of the assets of Tenant or any guarantor of Tenant's obligations.

G. Abandonment by Tenant for a period of thirty (30) days of any substantial portion of the Demised Premises or cessation of use of the Demised Premises for the purpose leased.

H. Tenant is in default of any other Ground Lease with the Town of Addison or, provided Tenant is the holder of a valid aviation fuel dispensing permit or license issued by the Town of Addison, is in default of said fuel dispensing permit or license.

**Section 24. Remedies of Landlord:** Upon the occurrence of any of event of default by Tenant under this Lease, Landlord, without prejudice to any other legal, equitable, or contractual right or remedy, shall have the option to pursue any one or more of the following remedies using lawful force if necessary or appropriate, without notice or demand whatsoever:

A. Terminate this Lease or any of Tenant's rights under this Lease, with or without reentering or repossessing the Demised Premises.

**B.** Terminate Tenant's right to occupy all or any part of the Demised Premises without terminating this Lease and with or without reentering or repossessing the Demised Premises.

**C.** Recover unpaid rent and any Damages (as defined below);

**D.** Change or pick the locks, access codes, or other access control devices, and take any other self-help or judicial action to exclude Tenant and other occupants from the Demised Premises.

**E.** Remove and store (at Tenant's sole cost) any property on the Demised Premises.

**F.** Sue for eviction, specific enforcement, equitable relief, rent, damages, or any other available remedy.

**G.** Apply the Security Deposit in any manner permitted by this Lease, and increase the amount of the Security Deposit.

**H.** Cure Tenant's default, and if Landlord does so, Tenant must reimburse Landlord within 30 days after Landlord delivers an invoice for any expenses Landlord incurred effecting compliance with Tenant's obligations.

**I.** Withhold or suspend any payment that this Lease would otherwise require Landlord to make.

**J.** Charge interest on any amount not paid when due from the due date through the date of its payment at the Default Rate, which is the lesser of 18% per annum or the highest rate permitted by applicable law.

**K.** Recover — but only if Tenant fails to pay rent, and Landlord terminates this Lease or Tenant's right of possession with more than 12 months remaining in the term of this Lease — liquidated rental damages for the period after any such termination equal to 12 times the monthly rent due at the time of termination in lieu of any other contractual or legal measure of damages (including reletting costs) for Tenant's non-payment of rent, and the parties agree this is a reasonable estimate of Landlord's damages for such a breach given the uncertainty of future market rental rates and of the duration of any vacancy.

**L.** Exercise all other remedies available to Landlord at law or in equity (including, without limitation, injunctive and other extraordinary remedies).

For purposes of this Section, "Damages" includes, without limitation, all actual, incidental, and consequential damages, court costs, interest, and attorneys' fees arising from Tenant's breach of this Lease (including, without limitation, the cost of (A) recovering possession, (B) removing and storing Tenant's and any other occupant's

property, (C) re-letting (including, without limitation, the costs of brokerage commissions and cleaning, decorating, repairing, or altering the Demised Premises for a substitute tenant or tenants), (D) collecting any money owed by Tenant or a substitute tenant, (E) repairing any damage caused by any Tenant Party, (F) performing any obligation of Tenant under the Lease, (G) any other loss or cost incurred by Landlord as a result of, or arising from, Tenant's breach of the Lease or Landlord's exercise of its rights and remedies for such breach, (H) any contractual or liquidated types or measures of damages specified in this Lease; and (I) any other type or measure of damages recoverable for any particular breach under Applicable Law.

Rental Deficiency is a contractual measure of Damages for Tenant's non-payment of rent measured by either the: (A) Actual Rental Deficiency, which is the difference (never less than zero) between (1) the rent due for, and other rent allocable under this Lease to, each month beginning with the first month with respect to which Landlord receives rent from reletting the Demised Premises, and (2) the proceeds, if any, that Landlord actually collects from any substitute tenant for any part of the Demised Premises in each corresponding month in which the Term and the term of the substitute tenant's lease overlap, *or* (B) Market Rental Deficiency, which is the present value, discounted at 6% simple annual interest, of the difference (never less than zero) between (1) the rent otherwise due under this Lease during any period after Tenant's breach in which Landlord may elect to recover this damage measure, and (2) the Fair Rental Value of the Demised Premises during that period, *plus* any costs incurred in connection with any actual or attempted reletting and any other Damages. In determining the Market Rental Deficiency, the Fair Rental Value will be the total rent that a comparable tenant would pay for comparable space in a building of substantially equivalent quality, size, condition, and location, considering rental rates and concessions then prevalent in the marketplace, the remaining lease term, the expected vacancy, any other relevant factors. An independent MAI appraiser selected by Landlord will determine the Demised Premises' Fair Rental Value, and that determination will conclusively bind the parties in any computation of the Market Rental Deficiency.

Unless Landlord delivers signed, written notice thereof to Tenant, no act or omission by Landlord or Manager or their respective officials, officers, employees, or agents will constitute Landlord's acceptance of surrender of the Demised Premises, termination of Lease, or an actual or constructive eviction of Tenant (including, without limitation, Tenant's delivery of keys to any of Landlord's or Manager's officials, officers, employees, or agents or Landlord's repossession, reentry, or reletting of the Demised Premises).

Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the terms, conditions and covenants herein contained.

**Section 25. Default by Landlord:** No default by Landlord hereunder shall constitute an eviction or disturbance of Tenant's use and possession of the Demised Premises or render Landlord liable for damages (including consequential damages) or entitle

Tenant to be relieved from any of Tenant's obligations hereunder (including the obligation to pay rent) or grant Tenant any right of deduction, abatement, set-off or recovery or entitle Tenant to take any action whatsoever with regard to the Demised Premises or Landlord until thirty (30) days after Tenant has given Landlord written notice specifically setting forth such default by Landlord, and Landlord has failed to cure such default within said thirty (30) day period, or in the event such default cannot be cured within said thirty (30) day period then within an additional reasonable period of time so long as Landlord has commenced curative action within said thirty (30) day period and thereafter is diligently attempting to cure such default. In the event that Landlord fails to cure such default within said thirty (30) day period, or within said additional reasonable period of time, Tenant shall have the right to:

**A.** Proceed to cure such default and deduct the cost of curing same plus interest thereon at the rate of ten percent (10%) per annum from the next succeeding rental installment(s) due by Tenant to Landlord hereunder; or

**B.** Proceed to cure such default and bring suit against Landlord for the cost of curing same plus interest thereon at the rate of ten percent (10%) per annum.

If any mortgagee of Landlord has given Tenant its address for notices and specifically requests such notice, Tenant agrees to give the notice required hereinabove to such mortgagee at the time Tenant gives same to Landlord, and to accept curative action, if any, undertaken by such mortgagee as if such curative action had been taken by Landlord.

#### **Section 26. Mitigation of Damages:**

**A.** In lieu of any other obligation to mitigate damages arising from Tenant's failure to pay rent or its abandonment of the Demised Premises in breach of this Lease, Landlord beginning not more than 60 days after Tenant physically vacates the Premises and continuing until the Demised Premises have been relet, will market the Demised Premises for lease, and Tenant will remain liable for all rent and other Damages.

Landlord and Tenant agree to the following criteria in connection with Landlord's obligation to mitigate damages after a default Tenant and abandonment of the Demised Premises by Tenant under this Lease:

1. Landlord will have no obligation to solicit or entertain negotiations with any other prospective tenants of the Demised Premises until and unless Landlord obtains full and complete possession of the Demised Premises, including without limitation, the final and unappealable legal right to relet the Demised Premises free of any claim of Tenant.

2. Landlord will not be obligated to offer the Demised Premises to a prospective tenant when other premises suitable for that prospective tenant's use are (or soon will be) available in any other premises located at Addison Airport.

3. Landlord will not have any obligation to lease the Demised Premises for any rental less than the current rate then prevailing for similar space at Addison Airport

(or if no similar space is available, the current fair market rental then prevailing for similar space in comparable buildings in the same market area as the Demised Premises) nor shall Landlord be obligated to enter into a new lease under any terms or conditions that are unacceptable to Landlord.

4. Landlord will not be obligated to enter into any lease with any prospective tenant whose reputation is not acceptable to Landlord, in Landlord's sole judgment and opinion.

5. Landlord will not be obligated to enter into a lease with any prospective tenant: (i) which does not have, in Landlord's sole judgment and opinion, sufficient financial resources and operating experience to operate the Demised Premises in a first class manner and meet its financial obligations; or (ii) whose proposed use of the Demised Premises is not a permitted use under the terms of this Lease.

6. Landlord will not be required to expend any amount of money to alter, remodel or otherwise make the Demised Premises suitable for use by any prospective tenant.

If Landlord makes the Demised Premises available for reletting under the criteria set forth hereinabove, Landlord will be deemed to have fully satisfied Landlord's obligation to mitigate damages under this Lease and under any law or judicial ruling in effect on the date of this Lease or at the time of Tenant's default, and Tenant hereby waives and releases, to the fullest extent legally permissible, any right to assert in any action by Landlord to enforce the terms of this Lease, any defense, counterclaim, or rights of setoff or recoupment respecting the mitigation of damages by Landlord (or alleged failure by Landlord to adequately mitigate its damages), unless and to the extent Landlord maliciously or in bad faith fails to act in accordance with the requirements of this Section.

No rent collected from a substitute tenant for any month in excess of the rent due under the Lease for that month will be credited or offset against unpaid rent for any other month or any other Damages. Tenant stipulates that the mitigation requirements expressed in this Section are objectively reasonable. **TO THE FULLEST EXTENT PERMITTED BY LAW, TENANT WAIVES ANY OTHER OBLIGATION BY LANDLORD TO MITIGATE ITS DAMAGES AFTER TENANT FAILS TO PAY RENT OR VACATES OR ABANDONS THE PREMISES.**

**B.** Tenant's right to seek damages as a result of a default by Landlord under this Lease shall be conditioned on Tenant taking all actions reasonably required, under the circumstances, to minimize any loss or damage to Tenant's property or business, or to any of Tenant's officers, employees, agents, invitees, or other third parties that may be caused by any such default of Landlord.

**Section 27. Waiver of Subrogation:** Each party hereto waives any and every claim which arises or may arise in such party's favor against the other party hereto during

the term of this Lease for any and all loss of, or damage to, any of such party's property located within or upon, or constituting a part of, the Demised Premises, which loss or damage is covered by valid and collectible casualty, fire and extended coverage insurance policies, to the extent that such loss or damage is recoverable under such insurance policies. Such mutual waivers shall be in addition to, and not in limitation or derogation of, any other waiver or release contained in this Lease with respect to any loss of, or damage to, property of the parties hereto. Inasmuch as such mutual waivers will preclude the assignment of any aforesaid claim by way of subrogation or otherwise to an insurance company (or any other person), each party hereby agrees immediately to give to each insurance company which has issued to such party policies of fire and extended coverage insurance, written notice of the terms of such mutual waivers, and to cause such insurance policies to be properly endorsed, if necessary, to prevent the invalidation of such insurance coverages by reason of such waivers.

**Section 28. Title to Improvements:** Any and all improvements on the Demised Premises, including, without limitation, any buildings, constructed on the Demised Premises by or for Tenant, shall be owned by Tenant during the term of this Agreement. The term "improvements" shall mean the improvements from time to time on the Demised Premises (including, without limitation, the Building Improvements).

Upon the termination of this Agreement, whether by expiration of the term hereof or by reason of default on the part of Tenant, or for any other reason whatsoever, the improvements (including, without limitation, the Building Improvements), and all parts thereof, shall merge with the title of the Demised Premises, free and clear of any claim of Tenant and all persons or entities claiming under or through Tenant (including, without limitation, any holder of a leasehold mortgage), and shall become the property of Landlord; provided, however: (i) if Tenant is not then in default hereunder, Tenant shall have the right to remove all personal property and trade fixtures owned by Tenant from the Demised Premises, but Tenant shall be required to repair any damage to the Demised Premises caused by such removal in a good and workmanlike manner and at Tenant's sole cost and expense; and (ii) Landlord may elect to require Tenant to remove all improvements from the Demised Premises and restore the Demised Premises to the condition in which the same existed on the date hereof, in which event Tenant shall promptly perform such removal and restoration in a good and workmanlike manner and at Tenant's sole cost and expense. Upon such termination, Tenant shall deliver the Demised Premises to Landlord in good condition, reasonable wear and tear excepted, and shall, at Landlord's request, execute a recordable instrument evidencing the termination of this Agreement and stating the termination or expiration date.

**Section 29. Mechanics' and Materialmen's Liens; Lien for Rent:**

**A.** Tenant agrees to **DEFEND, INDEMNIFY** and **HOLD HARMLESS** Landlord and Manager, and Landlord's and Manager's officials, officers, employees and agents, from and against all liability arising out of the filing of any mechanics' or materialmen's liens against the Demised Premises by reason of any act or omission of Tenant or anyone claiming under Tenant, and Landlord, at Landlord's option, may satisfy

such liens and collect the amount expended from Tenant together with interest thereon as provided in Section 39 as additional rent; provided, however, that Landlord shall not so satisfy such liens until fifteen (15) days after written notification to Tenant of Landlord's intention to do so and Tenant's failure during such fifteen (15) day period to bond such liens or escrow funds with appropriate parties to protect Landlord's interest in the Demised Premises.

**B.** To secure payment of rent and other sums of money coming due hereunder, Tenant grants to Landlord a continuing security interest in all of Tenant's goods, wares, equipment, fixtures, furniture, inventory, accounts, contract rights, chattel paper, and its other personal property ("Collateral") situated in or on the Demised Premises.

**C.** Tenant will not remove, or allow others to remove, the Collateral from the Demised Premises without Landlord's prior written consent. But Tenant may remove Collateral in the ordinary course of business before a default. If a default occurs, Landlord will be entitled to exercise any or all rights and remedies under the Uniform Commercial Code or otherwise provided in this Lease or by law. Landlord may sell any or all of the Collateral at public or private sale upon 10 days notice to Tenant, and Tenant stipulates that this notice is adequate and reasonable. This contractual lien supplements any statutory or contractual lien in favor of Landlord.

**D.** At Landlord's request, Tenant will sign and deliver to Landlord a financing statement in form sufficient to perfect Landlord's security interest in the Collateral, and Tenant irrevocably appoints Landlord as Tenant's attorney-in-fact to sign and deliver a financing statement to Landlord if Tenant fails or refuses to do so. This power-of-attorney is coupled with an interest.

**E.** Tenant warrants and represents that (a) the Collateral has not been purchased or used for personal, family, or household purposes; and (b) the lien in the Collateral constitutes a first and superior lien. Tenant will not allow any other lien in the Collateral without Landlord's prior written consent.

Pursuit of any one or more of the foregoing remedies shall not preclude the simultaneous or subsequent pursuit of any other remedy provided herein or any other remedy provided by law or in equity, nor shall the pursuit of any one or more remedies constitute a forfeiture or waiver of any rent or other amount payable by lessee hereunder or of any damages (including consequential damages) accruing to or suffered by Landlord by reason of any event of default.

**Section 30. Title:** Tenant accepts the Demised Premises subject to: (i) the terms and conditions of this Agreement, (ii) the Rules and Regulations; (iii) easements and rights-of-way, and (iv) zoning ordinances and other ordinances, laws, statutes, regulations, orders, standards, rules, or policies now in effect or hereafter promulgated by any governmental authority having jurisdiction over the Demised Premises (including, without limitation, the City, the Federal Aviation Administration, and the Texas Department of Transportation),

and (v) the terms of any and all FAA, TxDOT, or other grant agreements or grant assurances regarding the Airport, and the terms of any grant, loan, or agreement under Section 22.055, Tex. Transp. Code, as amended or superseded, whether now existing or made in the future.

**Section 31. Quiet Enjoyment and Subordination:** Landlord represents that Tenant, upon payment of the rents herein reserved, and performance of the terms, conditions, covenants and agreements herein contained, shall (subject to all of the terms and conditions of this Lease) peaceably and quietly have, hold and enjoy the Demised Premises during the full term of this Lease; provided, however, that Tenant accepts this Lease subject and subordinate to any recorded mortgage, deed of trust or other lien presently existing upon, or to any other matter affecting, the Demised Premises. Landlord further is hereby irrevocably vested with full power and authority by Tenant to subordinate Tenant's interest hereunder to any mortgage, deed of trust or other lien now existing or hereafter placed on the Demised Premises or to declare this Lease prior and superior to any mortgage, deed of trust or other lien now existing or hereafter placed on the Demised Premises; provided, however, any such subordination shall be upon the express conditions that (i) this Lease shall be recognized by the mortgagee and that all of the rights of Tenant shall remain in full force and effect during the full term of this Lease on condition that Tenant attorn to the mortgagee, its successors and assigns, and perform all of the covenants and conditions required by the terms of this Lease, and (ii) in the event of foreclosure or any enforcement of any such mortgage, the rights of Tenant hereunder shall expressly survive and this Lease shall in all respects continue in full force and effect so long as Tenant shall fully perform all Tenant's obligations hereunder and attorn to the purchaser. Tenant also agrees upon demand to execute further instruments declaring this Lease prior and superior to any mortgage, deed of trust or other lien and specifically providing that this Lease shall survive the foreclosure of such mortgage, deed of trust or other lien.

**Section 32. Rent on Net Return Basis:** The rent provided for in this Lease shall be an absolutely net return to Landlord for the term of this Lease, free of any loss, expenses or charges with respect to the Demised Premises, including, without limitation, maintenance, repairs, replacement, insurance, taxes and assessments, and this Lease shall be construed in accordance with and to effectuate such intention.

**Section 33. Holding Over:** Should Tenant, or any of Tenant's successors in interest fail to surrender the Demised Premises, or any part thereof, on the expiration of the term of this Lease, such holding over shall constitute a tenancy from month to month only terminable at any time by either Landlord or Tenant after thirty (30) days prior written notice to the other, at a monthly rental equal to one hundred twenty-five percent (125%) of the rent paid for the last month of the term of this Lease.

**Section 34. Waiver of Default:** No waiver by the parties hereto of any default or breach of any term, condition or covenant of this Lease shall be deemed to be a waiver of any subsequent default or breach of the same or any other term, condition or covenant contained herein. Landlord will not be deemed to have waived any right or Tenant's breach of any obligation under this Lease, unless Landlord delivers a signed writing, addressed to Tenant explicitly relinquishing that right or breach. No custom or practice arising during the

administration this Lease will waive, or diminish, Landlord's right to insist upon strict performance of Tenant's obligations. No restrictive endorsement or other statement on or accompanying any check or payment will be deemed an accord and satisfaction or novation, and Landlord will be entitled to accept any such check or payment, without prejudice, to Landlord's rights to recover the full amount due and to exercise its other remedies.

**Section 35. Release of Landlord Upon Transfer:** All of Landlord's personal liability for the performance of the terms and provisions of this Lease (except for any liability accruing prior to such transfer) shall terminate upon a transfer of the Demised Premises by Landlord, provided that the obligations of Landlord under this Lease are covenants running with the land and shall be binding upon the transferee of Landlord's interest in this Lease and the Demised Premises.

**Section 36. Attorneys' Fees:** If, on account of any breach or default by Tenant of Tenant's obligations under this Lease, it shall become necessary for Landlord to employ an attorney to enforce or defend any of Landlord's rights or remedies hereunder, Landlord shall be entitled to collect reasonable attorneys' fees incurred in such connection from Tenant.

**Section 37. Financial Information:** Tenant agrees that Tenant will from time to time upon the written request of Landlord during the term of this Lease furnish to Landlord such credit and banking references as Landlord may reasonably request.

**Section 38. Estoppel Certificates:** Tenant agrees that from time to time, upon not less than ten (10) days prior written request by Landlord, Tenant will deliver to Landlord a statement in writing certifying that:

**A.** This Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease as modified is in full force and effect and stating the modifications).

**B.** The dates to which rent and other charges have been paid.

**C.** Landlord is not in default under any term or provision of this Lease or if in default the nature thereof in detail in accordance with an exhibit attached thereto.

**D.** If requested by Landlord, Tenant will not pay rent for more than one (1) month in advance and that this Lease will not be amended without notice to Landlord's mortgagee and that the same will not be terminated without the same notice required by the Lease to be furnished to Landlord also being furnished to Landlord's mortgagee and Landlord's mortgagee fails to cure such default within the curative period allowed Landlord under this Lease.

Landlord agrees that from time to time, upon not less than ten (10) days' prior written request by Tenant, Landlord will deliver to Tenant a statement in writing certifying that:

(i) This Lease is unmodified and in full force and effect (or if there have been modifications, that the Lease as modified is in full force and effect and stating the modifications).

(ii) The dates to which rent and other charges have been paid.

(iii) Tenant is not in default under any term or provision of this Lease or if in default the nature thereof in detail in accordance with an exhibit attached thereto.

**Section 39. Interest on Tenant's Obligations and Manner of Payment:** All monetary obligations of Tenant to Landlord under this Lease remaining unpaid ten (10) days after the due date of the same (if no due date has been established under other provisions hereof, the "due date" shall be the date upon which Landlord demands payment from Tenant in writing) shall bear interest at the rate of ten percent (10%) per annum from and after said tenth (10th) day until paid. If more than twice during the term of the Lease Tenant's personal or corporate check is not paid by the bank on which it is drawn for whatever reason, Landlord may require by giving written notice to Tenant that the payment of all future monetary obligations of Tenant under this Lease are to be made on or before the due date by cash, cashier's check, certified check or money order, and the delivery of Tenant's personal or corporate check will no longer constitute payment of such monetary obligations. Any acceptance by Landlord of a personal or corporate check after such notice shall not be deemed or construed as a waiver or estoppel of Landlord to require other payments as required by said notice.

**Section 40. Special Events:** Landlord may sponsor certain special events, including, but not limited to, air shows, to be conducted on portions of the Airport, which may limit or obstruct access to the Premises and/or to the Airport ("Special Events"). As a material inducement to Landlord to enter into this Lease, and notwithstanding anything to the contrary contained herein, Tenant, on behalf of Tenant and on behalf of all directors, officers, shareholders, partners, principals, employees, agents, contractors, subtenants, licensees or concessionaires of Tenant and on behalf of any other party claiming any right to use the Demised Premises by, through or under Tenant, hereby: (i) agrees that Landlord has the right to sponsor any or all Special Events and to allow use of portions of the Airport therefor even if the same limit or obstruct access to the Premises and/or to the Airport; (ii) releases, waives and discharges Landlord and Manager, and their respective officials, officers, employees and agents, from all liability for any loss, damage, cost, expense or claim arising or resulting from or pertaining to the limitation or obstruction of access to the Demised Premises and/or to the Airport from the conduct of Special Events and/or activities relating or pertaining thereto, including, without limitation, death, injury to person or property or loss of business or revenue (the "Released Claims"); (iii) covenants not to sue the Landlord or Manager or their respective officials, officers, employees and agents (whether in their official or private capacities) for any Released Claims; (iv) agrees that the terms contained in this Section are intended and shall be construed to be as broad and inclusive as possible under the laws of the State of Texas; and (v) agrees that if any portion of this Section is held to be invalid or unenforceable, the remainder of this Section shall not be affected thereby but shall continue in full force and effect.

**Section 41. Independent Contractor:** It is understood and agreed that in leasing and operating the Demised Premises, Tenant is acting as an independent contractor and is not acting as agent, partner, joint venturer or employee of Landlord or Manager.

**Section 42. Force Majeure:**

A. In the event performance by Landlord of any term, condition or covenant in this Lease is delayed or prevented by any Act of God, strike, lockout, shortage of material or labor, restriction by any governmental authority, civil riot, flood, or any other cause not within the control of Landlord, the period for performance of such term, condition or covenant shall be extended for a period equal to the period Landlord is so delayed or prevented.

B. Except for the payment of any rent or any other payment to be made by, or any other monetary obligation of, Tenant under this Lease, and the provision of insurance by Tenant under this Lease, in the event performance by Tenant of any term, condition or covenant in this Lease is delayed or prevented by any Act of God, strike, lockout, shortage of material or labor, restriction by any governmental authority, the delay of any governmental approvals, civil riot, flood, or any other cause not within the control of Tenant, the period for performance of such term, condition or covenant shall be extended for a period equal to the period Tenant is so delayed or prevented.

**Section 43. Exhibits:** All exhibits, attachments, annexed instruments and addenda referred to herein shall be considered a part hereof for all purposes with the same force and effect as if copied verbatim herein.

**Section 44. Use of Language:** Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires.

**Section 45. Captions:** The captions or headings, sections, or paragraphs in this Lease are inserted for convenience only, and shall not be considered in construing the provisions hereof if any question of intent should arise.

**Section 46. Successors; No Third Party Beneficiaries:** The terms, conditions and covenants contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto and their respective successors in interest and legal representatives except as otherwise herein expressly provided. All rights, powers, privileges, immunities and duties of Landlord under this Lease, including, but not limited to, any notices required or permitted to be delivered by Landlord to Tenant hereunder, may, at Landlord's option, be exercised or performed by Landlord's agent or attorney.

This Lease and each of its provisions are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any third person or entity.

**Section 47. Severability:** If any provision in this Lease should be held to be invalid, illegal, or unenforceable, the validity and enforceability of the remaining provisions of this Lease shall not be affected thereby, and the invalid, illegal, or unenforceable term will be reformed to give effect (to the fullest extent possible) to the parties' intentions in a manner that is legal, valid, and enforceable. It is the parties intent that the term of this Lease not exceed 40 years (480 months); if it should be determined that the term of this Lease exceeds such period of time, the term hereof shall be reformed so as to make the term hereof not exceed such period of time.

**Section 48. Notices:** Any notice or document required to be delivered hereunder may be delivered in person or shall be deemed to be delivered, whether actually received or not, when deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to the parties at the addresses indicated below, or at such other addresses as may have theretofore been specified by written notice delivered in accordance herewith.

TO LANDLORD:

Town of Addison  
Attn: City Manager  
5300 Belt Line Rd.  
Dallas, Texas 75254

TO TENANT:

RR Investments, Inc. d/b/a/ Million Air Dallas  
Attn. Mr. Jack Hopkins  
4300 Westgrove Drive  
Addison, Texas 75001

And;

Town of Addison, Texas  
c/o Airport Manager  
16051 Addison Road, Suite 220  
Addison, Texas 75001  
Attn: Real Estate Manager

**Section 49. Fees or Commissions:** Each party hereto hereby covenants and agrees with the other that such party shall be solely responsible for the payment of any brokers', agents' or finders' fees or commissions agreed to by such party arising from the execution of this Lease or the performance of the terms and provisions contained herein, and such party agrees to indemnify and hold the other party harmless from the payment of any such fees or commissions.

**Section 50. Counterparts:** This Lease may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

**Section 51. Consent; "Includes" and "Including"; Recitals:** Where Landlord consent or approval is required in this Lease, such consent or approval may be given by the City Council of the Town of Addison, Texas or by the City Manager of the Town of Addison. For purposes of this Lease, "includes" and "including" are terms of

enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded. The above and foregoing recitals and premises to this Lease are incorporated into and made a part of this Lease for all purposes.

**Section 52. Governing Law and Venue; Survivability of Rights and Remedies:**

This Lease and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas and with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the interpretation, validity and enforcement of this Agreement, and Landlord and Tenant both irrevocably agree that venue for any dispute concerning this Lease or any of the transactions contemplated herein shall be in any court of competent jurisdiction in Dallas County, Texas. Any rights and remedies either party may have with respect to the other arising out of the performance of or failure to perform this Lease during the term hereof shall survive the cancellation, expiration or termination of this Lease.

**Section 53. Entire Agreement and Amendments:**

This Lease, consisting of fifty-three (53) Sections and Exhibits 1, 2.1, 2.2, 3 and Addendum 1 attached hereto, embodies the entire agreement between Landlord and Tenant and supersedes all prior agreements and understandings, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. Except as otherwise specifically provided herein, no agreement hereafter made shall be effective to change, modify, discharge or effect an abandonment of this Lease, in whole or in part, unless such agreement is in writing and signed by or in behalf of the party against whom enforcement of the change, modification, discharge or abandonment is sought.

**EXECUTED** as of the day, month and year first above written.

**LANDLORD:**

**TENANT:**

TOWN OF ADDISON, TEXAS

RR INVESTMENT, INC.  
D/B/A/ MILLION AIR DALLAS

By: \_\_\_\_\_  
Ron Whitehead, City Manager

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

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

**ACKNOWLEDGEMENTS**

**STATE OF TEXAS  
COUNTY OF DALLAS**

This instrument was acknowledged before me on \_\_\_\_\_, 2013 by Ron Whitehead, City Manager of the Town of Addison, Texas, a Texas home-rule municipality, on behalf of the said municipality.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE**, this the \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public, State of Texas

**STATE OF TEXAS  
COUNTY OF DALLAS**

This instrument was acknowledged before me on \_\_\_\_\_, 2013 by \_\_\_\_\_, \_\_\_\_\_ of RR Investment, Inc. d/b/a/ Million Air Dallas, a Texas corporation, on behalf of the said corporation.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE**, this the \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public, State of Texas

## **Exhibit 1 – Legal Description of Addison Airport**



## Exhibit 2.2 – Legal Description of Demised Premises

**PHASE I**  
**4565 Claire Chennault**  
**Property/ GL# 068C-01**  
**ALP# V8**

**BEING** a tract of land situated in the William Lomax Survey, Abstract No. 792, in the City of Addison, Dallas County, Texas, being located on the Addison Municipal Airport, and being more particularly described as follows:

**COMMENCING** at the intersection of the south line of Westgrove Road (60 foot right-of-way) with the west line of Claire Chennault (60 foot Ingress/Egress Easement);

**THENCE** South 00 Degrees 32 Minutes 21 Seconds East, along the west line of said Claire Chennault, 256.76 feet to the point of curvature of a non-tangent circular curve to the right having a radius of 70.00 feet;

**THENCE** southwesterly, continuing along the west line of said Claire Chennault and along said curve to the right, through a central angle of 43 Degrees 40 Minutes 00 Seconds, an arc distance of 53.35 feet and having a chord which bears South 21 Degrees 05 Minutes 00 Seconds West, 52.07 feet to a "PK" nail found at the point of tangency;

**THENCE** South 42 Degrees 55 Minutes 00 Seconds West, continuing along the northwest line of said Claire Chennault, 506.35 feet to a 5/8-inch iron rod set with plastic cap stamped "Sparr Surveys" at the **POINT of BEGINNING**, same being the southerly southeast corner of a ground lease as described in deed to CC Hanger, L.P. recorded in Volume 2004184, Page 7523 of the Deed Records of Dallas County, Texas;

**THENCE** South 42 Degrees 55 Minutes 00 Seconds West, continuing along the northwest line of said Claire Chennault, 248.28 feet to a 5/8-inch iron rod set with plastic cap stamped "Sparr Surveys";

**THENCE** North 47 Degrees 22 Minutes 09 Seconds West, departing the northwest line of said Claire Chennault, 351.96 feet to a 5/8-inch iron rod set with plastic cap stamped "Sparr Surveys" in the southeast line of Taxiway Victor;

**THENCE** North 43 Degrees 00 Minutes 51 Seconds East, along the southeast line of said Taxiway Victor, 248.35 feet to a 1/2-inch iron rod found at the westerly corner of said CC Hanger tract;

**THENCE** South 47 Degrees 21 Minutes 28 Seconds East, departing the southeast line of said Taxiway Victor, along the southwest line of said CC Hanger tract, 351.54 feet to the **POINT of BEGINNING** and containing 2.005 acres of land.

**PHASE II**  
**Property/GL# 068B-01**  
**ALP# V6**

**BEING** a tract of land situated in the William Lomax Survey, Abstract No. 792, in the City of Addison, Dallas County, Texas, being located on the Addison Municipal Airport, and being more particularly described as follows:

**COMMENCING** at the intersection of the south line of Westgrove Road (60 foot right-of-way) with the west line of Claire Chennault (60 foot Ingress/Egress Easement);

**THENCE** South 00 Degrees 32 Minutes 21 Seconds East, along the west line of said Claire Chennault, 256.76 feet to the point of curvature of a non-tangent circular curve to the right having a radius of 70.00 feet;

**THENCE** southwesterly, continuing along the west line of said Claire Chennault and along said curve to the right, through a central angle of 43 Degrees 40 Minutes 00 Seconds, an arc distance of 53.35 feet and having a chord which bears South 21 Degrees 05 Minutes 00 Seconds West, 52.07 feet to a "PK" nail found at the point of tangency;

**THENCE** South 42 Degrees 55 Minutes 00 Seconds West, continuing along the northwest line of said Claire Chennault, 754.63 feet to a 5/8-inch iron rod set with plastic cap stamped "Sparr Surveys" at the **POINT of BEGINNING**;

**THENCE** South 42 Degrees 55 Minutes 00 Seconds West, continuing along the northwest line of said Claire Chennault, 128.30 feet to a 5/8-inch iron rod set with plastic cap stamped "Sparr Surveys" at the easterly corner of Lease Tract 68, also known as 4505 Claire Chennault;

**THENCE** North 47 Degrees 24 Minutes 55 Seconds West, departing the northwest line of said Claire Chennault, 355.97 feet to a 5/8-inch iron rod set with plastic cap stamped "Sparr Surveys" in the southeast line of Taxiway Victor, and lying in a non-tangent circular curve to the left having a radius of 485.00 feet;

**THENCE** northeasterly, along the southeast line of said Taxiway Victor and along said curve to the left, through a central angle of 07 Degrees 09 Minutes 47 Seconds, an arc distance of 60.63 feet and having a chord which bears North 46 Degrees 35 Minutes 45 Seconds East, 60.60 feet to a 5/8-inch iron rod set with plastic cap stamped "Sparr Surveys" at the point of tangency;

**THENCE** North 43 Degrees 00 Minutes 51 Seconds East, along the southeast line of said Taxiway Victor, 68.14 feet to a 5/8-inch iron rod set with plastic cap stamped "Sparr Surveys";

**THENCE** South 47 Degrees 22 Minutes 09 Seconds East, departing the southeast line of said Taxiway Victor, 351.96 feet to the **POINT of BEGINNING** and containing 1.040 acres of land.

### **Exhibit 3– Description of Existing Building Improvements on the Demised Premises**

Tenant may cause to have erected and/or constructed to or on the Demised Premises the Building Improvements generally described in this Exhibit 3 as follows:



Phase I: Group II Aircraft Hangar 28' hangar door high with two floors of enclosed office approximately 29,480 gross square feet of building area on 87,818 square feet of land pursuant to the Design Plan by Albertson Associates, L.L.C. 9225 Peppertree, Wichita, KS 67226 dated on or about January 28, 2010. Helmberger Associates, Inc., Engineer; 1525 Bozman Rd., Wylie, Texas 75098, Mr. Joseph Helmberger, P.E.

This Exhibit 3 hereby includes by reference the complete set of Construction Documents approved by the Town of Addison for the Building Improvements including but not limited to all architectural, civil, mechanical, and electrical and landscape drawings and specifications, together with all change orders and as-built modifications, warranties and guaranties procured by Tenant.

## ADDENDUM 1

### EXPANSION OPTION

Provided Tenant is in good standing with Landlord and not in default of this Lease Agreement or any other agreement or contract with Landlord at the time, Tenant shall have the right (the "Expansion Option") to construct a second executive aircraft hangar (the "Phase II Hangar") on the remaining 1.040+/- acres of land identified as "Phase II" and shown in Exhibit 2.1 and described in Exhibit 2.2 of this Lease Agreement, which is a part of and contained wholly within the Demised Premises described in Exhibit 2.1 and Exhibit 2.2 (the "Phase II Tract"). The design and construction of the Phase II Hangar have yet to be determined and agreed to by the parties but is expected to architecturally complement and meet or exceed the same design and quality of construction of the Phase I Building Improvements. The construction of the Phase II Hangar is the only building and/or improvements that Tenant may construct, place, or locate upon the Phase II Tract.

Should Tenant exercise the aforementioned Expansion Option, the following terms and conditions shall apply:

1. The Permitted Use of the Phase II Tract is the same as the remainder of the Demised Premises (the Phase I Tract) as set forth in Section 5 of the Lease but with addition of the Phase II Hangar to be constructed of comparable size, construction and cost as the Phase I Building Improvements, subject to Landlord's advance review and approval of Tenant's Phase II Design Plan.

2. The Phase II Hangar shall be constructed on the Demised Premises (on the Phase II Tract) in accordance with plans and specifications prepared by an architect and/or engineer selected by Tenant (the "Phase II Design Plan"), which shall be submitted to Landlord and approved in writing by Landlord. Landlord reserves the right to withhold approval for any reason in its sole discretion. Any architect or engineer shall be duly licensed to practice architecture or engineering, as the case may be, in the State of Texas. Such construction shall be performed in a first class, workmanlike manner and in compliance with all applicable building codes, standards and ordinances, as set out in more detail, below. Tenant agrees to promptly pay and discharge all costs, expenses, claims for damages (including consequential damages) or injury (including, without limitation, claims for personal injury or death, or property damage or destruction, or economic loss), liens and any and all other liabilities and obligations which arise in connection with such construction, and **Tenant shall defend, indemnify, and hold harmless Landlord and Manager, and their respective officials, officers, employees, and agents, from and against any and all such costs, expenses, claims, liens, liabilities, and obligations.** It is expressly understood and agreed that Tenant's construction of the Building Improvements shall include the finish-out of such building and improvements in accordance with the plans and specifications for the finish-out of the Phase II Design Plan as agreed by Landlord and Tenant.

3. Landlord's approval of the Phase II Design Plan or any other plans and specifications does not impose on Landlord any responsibility whatsoever, including, without limitation, any responsibility for the conformance of the plans and specifications with any governmental regulations, building codes, and the like, for which Tenant and its contractors shall have full and complete responsibility.

4. If construction of the Phase II Hangar has not commenced on or before the third anniversary of the Commencement Date of the Lease, Landlord may at any time thereafter, in its sole discretion, rescind and cancel this Expansion Option and the Phase II Tract shall thereupon immediately revert to the full use and control of the Landlord and shall no longer be subject to this Lease (but Tenant shall be and remain liable and responsible for payment of any Rent that is due for the Phase II Tract and for its acts, omissions, duties, and obligations (e.g., any environmental obligations, Tenant's obligation to indemnify Landlord) with respect to or regarding the Phase II Tract while the Phase II Tract was a part of the Demised Premises, and for that purpose the provisions of this Lease shall remain applicable and continue in force and effect. Upon such rescission and cancellation, Tenant agrees to execute an amendment to this Lease and a recordable memorandum as may be required by Landlord to (i) redefine the Demised Premises to consist then of only the Phase I Tract and the corresponding adjustment of Base Rent, as it may have been adjusted from time to time. The Base Rent adjustment shall be calculated by dividing the adjusted annual Base Rent immediately prior to the rescission and cancellation by the gross square feet of the Demised Premises prior to the reversion, which quotient (the square foot rate) is then multiplied by the Phase I land area only. The product of this calculation shall be the adjusted Base Rent going forward, subject to adjustment in accordance with Section 4 of the Lease Agreement.

5. For purposes hereof, construction shall be deemed to have commenced when all of the following events have occurred: (i) approval of the Phase II Design Plan by Landlord, (ii) Tenant has been issued the required building permit(s) or licenses necessary to construct the Phase II Hangar on the Demised Premises, (iii) received FAA's determination to Tenant's filing of Form 7460-1 Notice of Proposed Construction or Alteration, (iv) execution of a contract with a qualified contractor, (v) delivery to the Landlord evidence of the required Builder's Risk Insurance Policy, Performance and Payment Bonds, and (vi) the initiation of actual mobilization of construction equipment on the Demised Premises. Landlord shall, in consultation with Tenant, determine the date of commencement of construction.

6. After commencement of construction, Tenant shall complete construction of the Phase II Hangar with reasonable diligence, without material deviation from the Phase II Design Plan and any deviation from the Phase II Design Plan shall be subject to the prior review and approval of Landlord. If (i) construction of the Phase II Hangar is not Substantially Complete (as hereinafter defined) on or before the first day of the twenty-fifth month after the date of the commencement of construction (the "Construction Deadline") and Finally Complete (as hereinafter defined) no later than one-hundred and twenty (120) days thereafter, or (ii) the construction costs of the Phase II Hangar do not exceed **\$1,500,000.00** (the "Construction Cost Value") as established by evidence thereof

("Construction Costs Evidence," including true and correct copies of all receipts or other documents or records indicating the nature of the construction work performed, the cost thereof and the amount paid for such construction work, and other information and materials pertaining thereto as Landlord may request) which Tenant shall submit to Landlord on or before the Construction Deadline, Landlord may (i) impose a nuisance penalty of \$500.00 each day after the Construction Deadline and prior to the date of Substantial Completion (and the parties agree that such amount is reasonable and fair), or (ii) exercise any of its other rights and remedies provided under this Lease or by law or in equity or otherwise (including but not limited to the right to rescind and cancel the Expansion Option, resulting in the Phase II Tract no longer being a part of this Lease and any building and improvements located thereon being owned by Landlord; however, Landlord may require Tenant to remove any building or other improvements from the Phase II Tract, and the obligation of Tenant to do so shall survive the rescission and cancellation of the Expansion Option).

7. "Substantial Completion" of the construction of the Phase II Hangar shall be deemed to have occurred upon the issuance by the Town of Addison, Texas of a certificate of occupancy for the Phase II Hangar Improvements. "Final Completion" of the construction of the Phase II Hangar shall be deemed to have occurred upon the issuance by Tenant's architect who designed the Phase II Hangar of such documentation as may be to establish the final completion (closeout) of the construction of the Phase II Hangar and the delivery by Tenant to Landlord of comprehensive As-Built drawings and documentation reviewed by Tenant's architect reflecting all approved changes and modifications to the originally approved Design Plan.

8. Provided Tenant satisfies and completes to Landlord's reasonable satisfaction all of the terms, conditions, and provisions of this Lease, as it may be amended, regarding construction of the Phase II Hangar (as defined and described herein) including, without limitation, satisfaction of the time period for achievement of Substantial Completion and Final Completion (as such terms are defined herein) of the Phase II Hangar) and Construction Costs Evidence (as defined herein) is timely submitted by Tenant to Landlord and the same equals or exceeds the Construction Cost Value (as defined herein) and, Tenant is not in default of any provision of this Lease:

(a) then the Term of the Lease shall be extended so that it shall end four hundred and eighty (480) full calendar months following the date of Substantial Completion (as defined herein) (the "Lease Extension Period"), but subject, however, to the termination provisions and all other terms, conditions, and provisions of the Lease. Example: If the date of Substantial Completion of the Building Improvements is April 15, 2014, the Lease Extension Period will end at the end of May, 2054. Notwithstanding the foregoing or any other provision of this Lease, it is the intent of the parties that the remaining Term, as may be extended, shall not at any time exceed forty (40) years in duration.

(b) Within fifteen (15) calendar days after Final Completion of the Phase II Hangar is achieved by Tenant as defined herein, Landlord and Tenant agree to execute a Memorandum of Lease, in form and content satisfactory to Landlord,

which Memorandum may be publicly recorded by either party in the Official Public Records of Dallas County, Texas evidencing this Lease and its Term reflecting the Lease Extension Period.

*Remainder is Intentionally Left Blank*