

**KERRVILLE-KERR COUNTY AIRPORT  
COMMERCIAL LEASE AGREEMENT**

This **Lease Agreement** ("Agreement") is entered into by and between the Kerrville-Kerr County Joint Airport Board ("Lessor" or "Joint Airport Board") and \_\_\_\_\_ ("Lessee").

**WHEREAS**, the City of Kerrville ("City") and Kerr County ("County") jointly own the real property upon which is located the Kerrville-Kerr County Airport, sometimes referred to as Louis Schreiner Field ("Airport"); and

**WHEREAS**, the City and County are parties to an Amended and Restated Interlocal Joint Action Agreement dated May 24, 2022 ("Interlocal Agreement") that affirms the creation and continued existence of the Joint Airport Board; and

**WHEREAS**, the Joint Airport Board may lease Airport property and may adopt fees and rental rates with respect to the use of Airport services or use of Airport property; and

**WHEREAS**, the Joint Airport Board, through its Airport Manager and other employees, is responsible for the day-to-day management of the Airport.

**NOW, THEREFORE**, in consideration of these promises, covenants, and agreements, the parties agree as follows:

**ARTICLE 1 GRANT OF LEASE**

1.01 Leased Premises: Lessor agrees to lease to Lessee certain property owned by the City and County located at the Airport and being more particularly described as \_\_\_\_\_ sf of land and \_\_\_\_\_ sf of building improvements located at \_\_\_\_\_ Airport Loop, and as shown as a depiction and metes and bounds survey attached as Exhibit A, hereinafter being referred to as the "Premises."

**ARTICLE 2 TERM OF AGREEMENT**

2.01 Lease Term: The term of this Agreement shall commence at 12:01 a.m. on \_\_\_\_\_ and terminate at midnight on September 30, 20XX ("Lease Term") unless terminated earlier pursuant to the provisions of this Agreement.

2.02 Holdover of Lessee: If Lessee holds over or remains in possession of the Premises after the termination of this Agreement in the absence of a new lease agreement between the Lessor and Lessee, such continuation beyond the date of termination, or the collection or acceptance of rent, fees and/or other charges by the Lessor, shall not be construed as a renewal or extension of this Agreement, but shall be construed solely as creating a tenancy at will and not for any other term whatsoever. During the term of such tenancy at will, Lessee shall pay Lessor one hundred twenty-five percent (125%) times the monthly Base Rent previously paid during the current lease year and before any holdover tenancy, and any other fees and charges herein reserved and Lessee shall be bound by and comply with all relevant provisions of this

Agreement. Lessor may terminate the tenancy at will by giving Lessee 30 day written notice thereon.

### ARTICLE 3 RENT

3.01 Amount of Base Rent: Lessee agrees to pay to Lessor rent for the Premises the amount of \$ \_\_\_\_\_ per month (“Base Rent”), commencing on the Effective Date and continuing monthly, due on the first day of each following month for the entire Lease Term. If the commencement date of this lease shall be on a day other than the first day of a month, the rent due for that first month shall be prorated accordingly.

3.02 Security Deposit: At or before the execution of this Agreement, Lessee shall pay to Lessor a security deposit of \$ \_\_\_\_\_. Lessor may use as much of the deposit as necessary to pay for any damages resulting from Lessee’s occupancy of the Premises, normal wear and tear excepted. Within ninety (90) days of the termination of this Agreement and inspection of Premises, Lessor shall return the balance of the deposit to Lessee, minus any amount subtracted for damages.

3.03 Adjustment of Base Rent: Base Rent due in any holdover period (i.e., occupancy that extends beyond the Lease Term) shall be increased or decreased on the first October 1<sup>st</sup> of any such holdover period and annually on each October 1<sup>st</sup> thereafter as set out in the following Rent Adjustment Formula, based upon changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers) as promulgated by the Bureau of Labor Statistics of the United States Department of Labor (“CPI”) (“Adjusted Base Rent”):

#### Rent Adjustment Formula

$$\text{Adjusted Base Rent} = \text{Base Rent} \times \frac{\text{CPI-Current Index}}{\text{CPI-Base Index (i.e., 251.712)}}$$

#### Rent Adjustment Definitions

- Base Rent – The Base Rent reflected in Section 3.01 of this Agreement.
- CPI-Current Index – The published CPI for the month of February, immediately preceeding the applicable October 1, 20XX rent adjustment date.
- CPI-Base Index – The published CPI of \_\_\_\_\_ for the month of February, 20XX

In no event, however, shall the Base Rent be less than \$ \_\_\_\_\_ per month. In the event that the CPI is discontinued, comparable statistics on the purchasing power of the consumer dollar as determined by a responsible financial periodical of recognized authority selected by the Board shall be used as the basis for making adjustments of Base Rent during the Lease Term.

3.04 Delivery of Rent: All payments, by check or money order, required of Lessee by this Agreement shall be delivered by mail, or in person, to the Airport Manager's Office, 1877 Airport Loop, Kerrville, Texas 78028 located at the Airport, or to such other location as specified

in writing by the Lessor from time to time, no later than the first day of each calendar month of the Lease Term for which the payment is due.

3.05 Delinquent Rent Payments: In the event that payments to the Lessor for rent or other fees or charges are not received by the Lessor on or before the eighth day following the due date, Lessee shall pay a late rental charge of Two Percent (2.0%) of the rent amount due for that month. All rent and other payments which are past due more than thirty (30) days shall accrue simple interest at the rate of eighteen percent (18.0%) annually or (b) the maximum percentage rate allowed by law, whichever is less.

3.06 Application of Amounts Received: Payments received shall be applied in the following order: (1) late rental charges, (2) past due rent, beginning with the oldest amount due, (3) other past due amounts, and (4) rent currently due.

3.07 Contractual Lessor's Lien. Lessee agrees that Lessor shall have a contractual lien for unpaid rent that is due, and that this lien shall attach to all property that is stored on the Premises. This contractual lien is in addition to any statutory lien authorized by law. If Lessee defaults under this Agreement, Lessor shall have a lien upon all goods, chattels, and/or personal property of any description belonging to Lessee that is placed in or becomes a part of the Premises, as security for rent due and to become due for the remainder of the term. Lessee grants Lessor a security interest in all such nonexempt personal property placed in or on the Premises. If Lessor exercises its option to terminate the leasehold as the Agreement provides, the Lessor, after giving the Lessee reasonable notice, may take possession of all of Lessee's property on the Premises and sell it at public sale in accordance with Chapter 59, Subchapter C, of the Texas Property Code. The sale proceeds shall be applied to the necessary and proper expenses of the sale, then to paying the amount of the lien, with the balance, if any, to be paid to the Lessee.

## ARTICLE 4 PREMISES

4.01 Use of Premises. The Lessee agrees and acknowledges that the Premises shall be used primarily for aeronautical use and commercial aviation related business activity such as flight instruction, charter flight, air taxi, aerial photography, aircraft engine or airframe repair, avionics repair, (*describe other uses here as needed*) or other commercial activity within the Premises. Premises may also be used for storage of the Lessee's aircraft identified in Exhibit B, which the Lessee covenants, warrants, and agrees shall be owned by Lessee or under Lessee's exclusive control while stored on the Premises.

4.02 Other Uses of the Premises: Lessee agrees and acknowledges that so long as the Premises are used primarily for the storage of aircraft, and/or commercial aeronautical activities, other use of the Premises shall be limited to the following:

- (a) Storage of aircraft handling equipment such as tow bars, glider tow equipment, workbenches, and tools and materials used in servicing, minor maintenance, repair or outfitting of Lessee's aircraft.

- (d) The Premises may not be used to store non-airworthy aircraft for more than 180 days without Lessor's written permission.
- (e) Non-aeronautical items may be stored in hangars as long as the items do not interfere with the primary aeronautical use of the hangar.
- (f) Non aeronautical items will not impede the movement of aircraft in and out of the hangar or impede access to aircraft or other aeronautical contents of the hangar.
- (g) The Premises cannot be used to store items used to conduct non-aeronautical business including the storage of inventory.
- (h) No items in violation of airport rules and regulations, lease provisions, building codes and local ordinances will be stored in the Premises under any circumstances.

4.03 Ownership. Lessee warrants that they are the registered owner(s) of aircraft to be stored on the Premises and/or are using portions of the Premises for aircraft to be stored on the Premises. Lessee shall immediately notify the Airport Manager, in writing, of the description of any aircraft stored in the premises that is different from the aircraft on Exhibit B or of any change in the registered ownership or its lessee status of said aircraft, as applicable. On or before the commencement date of this Agreement, Lessee shall provide a copy of the FAA Certificate of Aircraft Registration establishing the ownership all aircraft being stored.

In addition, if Lessee's status as the operator of the aircraft is evidenced by a lease, such lease must be an exclusive-use lease wherein Lessee is the only authorized user of the aircraft. Upon request, Lessee shall provide a copy of said lease to the Airport Manager.

4.04 Aircraft Replacement. Only the aircraft identified on Exhibit B shall occupy the Premises. In the event that Lessee sells or disposes of the aircraft, or aircraft registration lapses, Lessee shall have 120 days to replace the aircraft with another aircraft or re-register aircraft and shall provide written notification to the Airport Manager concerning the actions taken. In the event Lessee fails to replace the aircraft within this time period, Lessee shall be deemed to have abandoned the Premises, and the Lessor may immediately terminate this Agreement.

## **ARTICLE 5 CONDITIONS AND USES**

5.01 Securing the Premises. Lessee shall have full responsibility to properly secure the Premises.

5.02 Compliance with Laws. Lessee shall commit no kind of waste and shall take good and reasonable care of the Premises, and shall in the use and occupancy of the Premises, adhere to federal, state, and local laws and regulations, including the Kerrville-Kerr County Airport Code, as adopted by City and County on June 27, 2018, ("Rules"). Such Rules are specifically incorporated herein by reference. Lessee acknowledges and agrees to be bound by and comply with the Rules, as these now exist or may be amended, during the term of this Agreement.

5.03 Alterations. Lessee shall not make any changes or alterations to the Premises unless upon written consent of Lessor. Where Lessor consent is granted, all changes and alterations shall be made at the expense of Lessee and, upon the expiration of this Agreement, all fixtures shall become the property of the Lessor.

5.04 Remodel/Renovation of Leased Premises. Lessee may remodel the Office Space and renovate other portions of the Leased Premises, pursuant to plans and specifications approved in writing by Lessor (the "Renovation Plans") prior to the commencement of work. All such remodeling and renovation shall be at Lessee's sole cost and expense

5.04 Commercial Aviation and Non-Aviation Related Business Activities. Lessee shall not conduct or allow any non-aviation related business or activity within the Premises or Airport without the prior written consent of the Lessor. Any approved commercial aviation or non-aviation related business must obtain a business permit from Lessor in accordance with the Rules prior to operation.

5.05 Motor Vehicles and Parking. Only licensed drivers shall drive vehicles to and from public roads to Premises and within the Premises. Premises shall provide for all vehicle parking for employees, customers, and visitors. Vehicles shall not be left unattended outside the Premises at any time. See Section 7.03.

5.06 Maintenance of Airworthy Aircraft. Maintenance and repair of aircraft located on the Premises shall be limited to minor routine maintenance and repairs required for normal operation of the aircraft as recommended by the aircraft's manufacturer, such as changing filters, lubricants, spark plugs, and tires. Conducting repairs or maintenance that requires the substantial disassembly or assembly of the aircraft's airframe, power plant, and/or avionics, or that requires the stripping and/or painting of aircraft parts, is prohibited on the Premises.

5.07 Prohibited Use. Lessee agrees at all times to comply with the following: Lessee shall at no time use, or permit the use of, the Leased Premises in a manner that is contrary to applicable federal, state, and local laws, orders, ordinances, rules, or regulations, which shall include, but not be limited to, applicable Federal Aviation Administration rules and regulations and the Kerrville/Kerr County Airport Code as adopted on June 27, 2018, which may be amended from time to time, a copy of which Lessor has provided to Lessee.

Except for alterations, additions and other changes to the Leased Premises that are contemplated by the Renovation Plans, Lessee covenants and agrees that it will not make any structural alterations or additions to the Leased Premises nor will Lessee cause any holes to be drilled or made into brick or plaster nor any placards or decorative material be placed on the exterior or interior of Leased Premises. Lessee shall not make or suffer any waste of the Leased Premises.

5.08. Custodial Maintenance. Lessee shall maintain the Leased Premises in a clean and sanitary condition, with the exception of janitorial services for Common Areas as depicted on Exhibit A, including restrooms and hallways, which shall be provided by Lessor. Except for Common Areas, Lessee agrees to cause to be removed from the Leased Premises, at its own

expense, all waste, garbage and rubbish resulting from Lessee's activities, and agrees not to deposit same on the Leased Premises except temporarily in waste or garbage containers provided by Lessee at Lessee's expense. Lessor is not responsible for the cleaning of any portion of the Leased Premises, but shall provide janitorial services for the Common Areas if applicable.

5.09 Utilities and Maintenance by Lessee.

- (a) Lessee shall be solely responsible for the expense of the maintenance, repair and replacement of any heating and air conditioning unit of any offices and aircraft storage space in the Leased Premises.
- (b) Lessee shall be solely responsible for acquiring and the payment of propane, telephone and Internet access, if any.
- (c) At Lessor's request, Lessee shall, at Lessee's expense, cause to separate and install an electrical meter for the electrical service to the offices and any enclosed aircraft storage/work space of the Leased Premises.
- (d) Lessee shall, at Lessee's expense, pay prorated costs, of common electrical, sewer and water services to the Premises.

5.07 Breach. Lessee agrees that the failure of Lessee, his/her agents, employees, invitees, or servants to comply with any provision of this article shall result in a material breach of this Agreement and shall permit Lessor to pursue remedies as set forth in this Agreement, in addition to all other rights and remedies provided by law, to which the Lessor may resort cumulatively, or in the alternative.

**ARTICLE 6 MAINTENANCE AND REPAIRS**

6.01 Lessee's Responsibilities. Lessee shall maintain the Premises in a clean, neat, and sanitary condition, free of dirt, trash, refuse, scrap parts, and debris. Lessee shall, at their expense, provide for the removal and disposal of any such items. Lessee shall promptly report to Lessor any defects in the Premises requiring maintenance. Lessee shall be liable for all costs of repairs to the Premises, which have been because of and/or caused by Lessee's use.

6.02 Fueling. Lessee shall not conduct within the Premises any fueling or de-fueling of any aircraft.

6.03 Storage, Use, and Disposal of Hazardous Materials. Except for fuel within the aircraft, Lessee shall not store or permit the storage of any fuel, hazardous, volatile, and/or dangerous chemicals or substances within the Premises or Airport. The Lessee and its employees, agents, and invitees shall abide by all applicable laws and regulations of the United States Environmental Protection Agency, the Texas Commission of Environmental Quality, or their respective successors agencies, and any other governmental agency regarding the handling, discharge, release, and dumping of hazardous materials. Lessee shall indemnify, defend, and hold harmless the Lessor, the City, and the County for any violation of environmental law resulting from the use of the Premises by Lessee, or Lessee's family, guests, invitees, contractors, or agents,

and shall immediately notify the Lessor of any correspondence received from regulatory agencies or other parties concerning such matters. Lessee shall not conduct or allow to be conducted any hazardous activities on the Premises, including, but not limited to, welding, painting, or doping.

6.04 Fire Extinguisher. Lessee shall have enough fire extinguishers of acceptable size as determined by the Kerrville Fire Marshall within the Premises. Such fire extinguisher(s) shall be readily accessible in the event of a fire.

6.05 Inspection and Repair of Premises. The Lessee agrees and acknowledges that the Lessor and or its representatives shall have the right, at any time, to inspect the Premises for any purpose or to make repairs or alterations. The Lessee agrees and acknowledges that discrepancies found during the inspection will be corrected, at no cost to the Lessor, within 30 calendar days.

6.06 Disclaimer of Warranty. Lessor expressly disclaims any warranty of suitability that may otherwise arise by operation of law. Lessor does not warrant that there are no latent defects in the Premises for the lessee's intended purpose and that the essential facilities will remain in suitable condition. Lessee agrees that it is accepting the Premises "as is."

## **ARTICLE 7 ACCESS TO AND USE OF AIRPORT**

7.01 Access to Airport. Lessor shall maintain all public roads on the Airport giving access to the Leased Premises in good and adequate condition for use by cars and trucks and shall maintain free and uninterrupted access to the Leased Premises over said public roads at all times; provided, however, that Lessor shall not be in default of this Agreement if access is interrupted for any of the reasons set forth in Section 12.14, below.

7.02 Right to Use Airport. Lessee and Lessee's officers, employees, agents, contractors, invitees, and guests shall have the right to use that part of the Airport and its facilities not included within the Leased Premises in common with others authorized to do so. Such use shall be subject to any and all applicable federal, state or local laws, ordinances, statutes, rules, regulations, or orders of any governmental authority, lawfully exercising jurisdiction over the Airport or the activities and business operations of Lessee, including any limitations, restrictions or prohibitions affecting the aviation activities or operations of Lessee.

7.03 Vehicular Operations on the Airfield. Lessee, its employees, agents, invitees, or guests shall not operate vehicles upon or cross the Airport runways except in strict compliance with the Airport Rules and Regulations.

7.04 Airport Certification Rules and Regulations. Lessee shall comply with such rules that pertain to its operation on the Airport under the Airport Certifications Rules of Federal Aviation Regulations Part 139, as amended [14 CFR Part 139, as amended], to the extent such regulations are applicable to the operation of the Airport.

7.05 Airport Security Rules and Regulations. Lessee, its officers, employees, agents, contractors, invitees, and guests shall comply with all federal and local Airport Security

Regulations adopted by the Lessor as such rules and regulations exist or may hereafter be amended. LESSEE AGREES TO INDEMNIFY AND HOLD HARMLESS THE LESSOR, ITS OFFICERS AND EMPLOYEES, from any charges, fines or penalties that may be assessed or levied by the FAA or the Texas Department of Transportation by reason of the NEGLIGENT OR INTENTIONAL FAILURE OF LESSEE, ITS OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS, INVITEES, AND GUESTS to comply with such Airport Security Regulations.

7.06 14 C.F.R. Part 77 Requirements. Lessee agrees to comply with the notification and review requirements set forth in Part 77 of the Federal Aviation Regulations [14 CFR Part 77] in the event any future structure, antenna or building is planned for the Leased Premises, or in the event of any planned modification of any present or future building, antenna or structure located on the Leased Premises.

7.07 Control of Structures. Lessee shall not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the Leased Premises which highest point is above a mean sea level elevation established by the FAA and Lessor as a height limitation on such structures or objects. Lessor reserves the right to enter upon the Leased Premises and to remove offending structure(s) or object(s) and cut offending tree(s) at Lessee's expense.

7.08 Aerial Approaches. Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction together with the right to prevent Lessee from erecting or permitting to be erected any building or other structure on or adjacent to the Airport which, in the opinion of the Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

7.09 Right of Overflight. There is hereby reserved to the Lessor, for the use and benefit of the public, a right of flight for the passage of aircraft above the surface of the Leased Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace for landing at, taking off from, or operating on the Airport.

## **ARTICLE 8 ASSIGNMENTS, TRANSFER, AND SUBLETTING**

8.01 Lessee shall not sell, assign, sublet, or transfer any rights or privileges granted by this Agreement without the prior written approval of the Lessor. The Lessor shall have the exclusive option to grant or refuse such approval. The parking of an aircraft not owned or leased by Lessee within the Premises shall constitute a sublease.

## **ARTICLE 9 TERMINATION**

9.01 This Agreement shall be subject to immediate termination by the Lessor where Lessee:



1. is in arrears in the payment of or part of the rental payment for a period of thirty (30) days after Lessee is notified that payment was not received when due;
2. is in default in the performance of any covenants, conditions, or agreements required herein to be kept and performed by Lessee as identified in Article 9.02;
3. has made any general assignment for the benefit of creditors; or
4. has sold, assigned, sublet, or transferred any rights or privileges of this Agreement without the prior written approval of the Airport Manager as required by Article 8 of this Agreement.

In any of the aforesaid events, the Lessor may terminate this Agreement immediately and take immediate possession of the Premises, including all improvements therein, and remove Lessee's effects, forcibly, if necessary, without being deemed guilty of trespassing. However, any failure of the Lessor to terminate this Agreement immediately upon the default of Lessee for any of the reasons set out above shall not operate to bar or destroy the right of the Lessor to terminate this Agreement by reason of any subsequent violation of the terms herein.

The receipt or acceptance of money by the Lessor from the Lessee after the termination of this Agreement or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the Premises shall not reinstate, continue, or extend the terms of this Agreement, or affect any such notice, demand, or suit, or employ consent for any action for which the Lessor's consent is required or operate as a waiver of any right of the Lessor to retake and resume possession of the Premises.

9.02 Default by Lessee. The following shall be deemed to be events of default by Lessee under this Agreement:

- (a) Lessee shall fail to pay when due any installment of rent or any other undisputed payment required pursuant to this Agreement;
- (b) Lessee shall abandon any substantial portion of the Leased Premises;
- (c) Lessee or any guarantor of Lessee's obligations hereunder shall file a petition or be adjudged bankrupt or insolvent under any applicable federal or state bankruptcy or insolvency law or admit that it cannot meet its financial obligations as they become due, or a receiver or trustee shall be appointed for all or substantially all of the assets of Lessee or any guarantor of Lessee's obligations hereunder;
- (d) Lessee or any guarantor of Lessee's obligations hereunder shall make a transfer in fraud of creditors or shall make an assignment for the benefit of creditors;
- (e) Lessee shall do or permit to be done any act that results in a valid lien being filed against the Leased Premises;

- (f) The liquidation, termination, dissolution of Lessee or any guarantor of Lessee's obligations hereunder; or
- (g) Lessee fails to comply with any other term, provision or covenant of this Agreement other than those specified in subparts A. through F., above.

9.03 Termination upon Lessee's Default. Except for an event of default resulting from the filing petition in bankruptcy, if an event of default by Lessee shall continue for ten (10) days after service of notice of such event of default by Lessor to Lessee, Lessor may give notice of its election to terminate this Agreement, and thirty (30) days after service of such notice of election to terminate, this Agreement shall cease and terminate as if the day of Lessor's election were originally fixed for termination of this Agreement. Such election to terminate by Lessor shall not be construed as a waiver of any claim it may have against the Lessee consistent with such termination. If however, the event of default is of such nature that it cannot reasonably be remedied within ten (10) days after receipt of notice by Lessee, and if the Lessee shall have commenced curing such event of default within ten (10) days after receipt of such notice, and shall continuously and diligently proceed in good faith to cure such event of default, then the period for curing the event of default shall be extended for such length of time as is reasonably necessary to cure the event of default. Furthermore, if the event of default is the result of Lessee filing a petition in bankruptcy, then termination shall not occur unless the trustee in bankruptcy has failed to ratify this lease within sixty (60) days following the date of filing of the petition in bankruptcy.

9.04 Abandonment of Business by Lessee. Lessee further agrees that the abandonment for a period of thirty (30) days by Lessee of the conduct of its business activities at the Airport shall terminate Lessee's rights under this Agreement. By so terminating this Agreement, Lessor does not waive any other claim or rights against Lessee. For the purposes of this Section 9.3, the term "abandonment" shall mean the failure of Lessee to be open for business on the Leased Premises except in the case of war, strike, catastrophe or causes beyond Lessee's control.

9.05 No Remedy Exclusive. No remedy herein conferred upon or reserved to the Lessor or Lessee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or hereafter existing under law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Lessor and Lessee to exercise any remedy reserved to it in this Section 9.4, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

9.06 No Waiver of Breach. Lessor's failure of delay in declaring the existence of an event of default by Lessee shall not be construed as a waiver thereof, nor shall it be construed so as to waive or to lessen the right of the Lessor to insist upon the performance by Lessee of any term, covenant or condition hereof, or to exercise any rights given it on account of any such event of default. A waiver of any particular event of default shall not be deemed to be a waiver of the same, similar, or any other subsequent event of default.

9.07 Expeditious Action. Notwithstanding any provision as to notice in this Agreement herein contained, if in Lessor's reasonable judgment the continuance of any event of default by Lessee for the full period of the notice to cure the event of default will jeopardize the operation of the Airport or the rights of the Lessor or the other Airport tenants, Lessor may, without notice, elect to perform those acts in respect to which Lessee is in default. Lessee shall reimburse Lessor for any reasonable and necessary costs incurred by the Lessor pursuant to this Section 9.6.

9.08 Default in Rent Payment. Notwithstanding anything to the contrary above, if there should be any default in the payment by Lessee of any rents, fees or other undisputed charges due to Lessor as provided herein, the Lessor may give Lessee a ten (10) day written notice to pay all sums then due or cease operations, and if such payment is not made within such ten (10) day period or such longer time as Lessor may set forth, Lessee's rights under the Agreement shall terminate. By so terminating this Agreement, the Lessor does not waive any other claim or rights against Lessee.

9.09 Failure to Terminate Does Not Constitute Waiver. Upon a termination of this Agreement under Section 9.2, the Lessor may take immediate possession of the Leased Premises (with the exception of Aircraft or any motor vehicles), including any and all improvements therein, and remove Lessee's effects, forcibly if necessary, without being deemed guilty of trespassing. However, any failure of the Lessor to terminate this Agreement immediately upon the default of Lessee for any of the reasons set out above shall not operate to bar or destroy the right of the Lessor to terminate this Agreement by reason of any subsequent violation of the terms herein.

9.10 Acceptance of Rent Payment Does Not Constitute Waiver. The receipt or acceptance of money by the Lessor from the Lessee after the termination of this Agreement or after the service of any notice of election to terminate, after the commencement of any suit, or after final judgment for possession of the Leased Premises shall not reinstate, continue, or extend the terms of this Agreement, or affect any such notice, demand, or suit, or employ consent for any action for which the Lessor's consent is required or operate as a waiver of any right of the Lessor to retake and resume possession of the Leased Premises.

9.11 Termination by Lessee. In addition to the provisions of Section 3, and except for the payment by Lessee to Lessor of rents or other amounts past due or accrued but not yet paid, Lessee shall have the right to terminate this Agreement in its entirety, and all rights and obligations ensuing there from immediately upon the occurrence of the following:

- (a) The issuance of any order, rule or regulation of the Federal Aviation Administration, or its successor Federal Agency, or other competent government authority, Federal or State, or the issuance and execution of any judicial process by any court of competent jurisdiction, materially restricting for a period of at least sixty (60) days, the use of the Airport for aeronautical purposes; provided that none of the foregoing is due to any fault of Lessee; or
- (b) The material restriction of the Lessor's operation of the Airport by action of the Federal Government, or any department or agency thereof, under its wartime or emergency

powers, and the continuance thereof for a period of not less than sixty (60) days; provided however, that without prejudice to the rights of Lessee to terminate as above provided, the Lessor and Lessee may mutually agree to adjust fees and charges; or

- (c) Material restriction of the operation of the Airport arising from Lessor's failure to maintain and keep in repair the landing area of the Airport.

9.12 Repayment of Rent. If Lessee terminates this Lease for any of the reasons set forth in this Article 9, Lessor shall promptly repay Lessee any rent previously paid by Lessee attributable to the period following the date of such termination.

### ARTICLE 10 SURRENDER OF POSSESSION

10.01 Upon the expiration or termination of this Agreement, the Lessee's rights, privileges, and use of the Premises shall cease and the Lessee shall immediately surrender the same. The Lessee shall restore the Premises to its original condition as of the beginning of occupancy, ordinary wear and tear excepted.

### ARTICLE 11 INSURANCE AND INDEMNITY

11.01 Lessee shall carry insurance in the following types and amounts for the durations of this Lease and furnish Certificates of Insurance along with copies of policy declaration pages and all policy endorsements as evidence thereof to Lessor.

<u>Business Insurance</u>	<u>LIMITS:</u>
a. Workman's Compensation covering all employees	Statutory
b. Employer's Liability	<u>\$100,000.00</u>
c. Comprehensive General Liability	
Bodily Injury & Property Damage (per occurrence)	<u>\$1,000,000.00</u>
Aggregate	<u>\$2,000,000.00</u>

(Premises/Operations, Products/Completed Operations/Independent Contractors/Contractual, Liability/Coverages may not be excluded). XCU must be supplied if any exposure.

- d. Business Automobile Liability covering owned vehicles, rented and non-owned vehicles and employee non-ownership

    Combined Single Limit (Each Accident): \$1,000,000.00

The Commercial General Liability and the Automobile Liability policies shall name: Kerrville-Kerr County Joint Airport Board, City of Kerrville, Kerr County, and their respective

elected or appointed officials, officers, representatives, managers, commissioners, agents, engineers and employees.

Additional Insured endorsement, Waiver of Subrogation endorsement, and 30-Day Notice of Cancellation endorsements shall name: Kerrville-Kerr County Joint Airport Board, City of Kerrville, Kerr County, and their respective elected or appointed officials, officers, representatives, managers, commissioners, agents, engineers and employees, and shall also be shown as Certificate Holders. Certificates and notices shall be sent to:

KERRVILLE-KERR COUNTY JOINT AIRPORT BOARD  
c/o Kerrville-Kerr County Airport  
1877 Airport Loop  
Kerrville, Texas 78028  
Attn: Mary L. Rohrer, Airport Manager

The insurance shall be carried with an insurance company duly authorized to do business in the State of Texas and having an AM Best Rating of A-VII or better.

11.02. Aircraft/ Aeronautical Insurance. Lessee shall, at their own expense, purchase, maintain, and keep in full force and effect in accordance with Minimum Standards, and further detailed below

- a. Liability insurance at a minimum of \$1,000,000.00 aircraft liability (per occurrence) single limit for bodily injury and property damage including passengers, but with passenger bodily injury limited within the single limit to \$100,000 for each passenger.
- b. Hangar keeper's Insurance.
- c. Aircraft Rental, flight training, and commercial Flying Club
- d. Specialized commercial aeronautical activities

Such policy shall include coverage for aircraft operations on the Premises. The policy shall include an Additional Insured endorsement, Waiver of Subrogation endorsement, and 30-Day Notice of Cancellation endorsement in favor of Kerrville-Kerr County Joint Airport Board, City of Kerrville, Kerr County, and their respective elected or appointed officials, officers, representatives, managers, commissioners, agents, and employees.

The insurance shall be carried with an insurance company duly authorized to do business in the State of Texas and having an AM Best Rating of at least B++6.

A Certificate of Insurance shall be filed with Lessor prior to the Lessee's occupation of the Premises and/or commencement of business, indicating all endorsements, specifically the Additional Insured endorsement, Waiver of Subrogation endorsement, and 30-Day Notice of Cancellation endorsement. Kerrville-Kerr County Joint Airport Board, City of Kerrville, Kerr County, and their respective elected or appointed officials, officers, representatives, managers, commissioners, agents, and employees shall also be shown as Certificate Holder. Certificate and notices of cancellation shall be sent to:

:

KERRVILLE-KERR COUNTY JOINT AIRPORT BOARD  
c/o Kerrville-Kerr County Airport  
1877 Airport Loop  
Kerrville, Texas 78028  
Attn: Mary L. Rohrer, Airport Manager

Notwithstanding the above, Lessee shall be fully responsible for all losses arising out of, resulting from, or connected with its activities and operations under this Agreement, whether such losses are covered by insurance or not.

11.03 Indemnification. Lessee shall indemnify and hold harmless the Lessor, the City and the County, and their respective officers, agents, and employees against any and all claims, demands, damages, costs, and expenses, including, but not limited to, investigative expenses and reasonable attorney's fees for the defense of such claims and demands, arising out of or attributed directly or indirectly to the use of the Premises and any other area in the airport by Lessee, or from any breach on the part of the Lessee of any term of this Agreement, or from any act of negligence of the Lessee, his/her family members, agents, employees, contractors, or invitees, in or about the Premises or other areas of the airport. In case of any action or proceeding brought against the Lessor, the City and the County by reason of such claim, Lessee, upon notice from the Lessor, agrees to defend the action or proceeding by counsel acceptable to the Lessor.

11.04 Release. Lessee shall store its property in and shall occupy and use the Premises and all other portions of the Airport at its own risk. Lessee releases Lessor, the City and the County to the full extent permitted by law, from all claims of every kind resulting in loss of life, personal or bodily injury, or property damage, including those caused by the negligence of the Lessor, the City and the County, their officers, agents, and employees.

11.05 Lessee's Personal Property Coverage. Lessee understands, acknowledges, and agrees that Lessor does not provide, and shall not be required to provide, insurance to cover the loss of personal and or business property located within the Premises, including, but not limited to aircraft and fixtures.

## **ARTICLE 12 GENERAL PROVISIONS**

12.01 Liability for Property Damage. as expressly set forth herein, Lessor shall not be liable for damage or loss to aircraft or other personal property on the Leased Premises. Lessee agrees that its aircraft and other personal property are stored at Lessee's sole risk.

12.02 Venue. Venue shall be in the courts of Kerr County, Texas. The laws of the State of Texas shall govern the validity, interpretation, performance, and enforcement of this Agreement.

12.03 No Partnership, Agency, Joint Venture. It is mutually understood and agreed that nothing in this Agreement is intended or shall be construed as in any way creating or establishing any partnership, joint venture, agency, or any other relationship between the Lessor and Lessee other than landlord and tenant, respectively.

12.04 Attorney's Fees. If any party brings any action or proceedings to enforce, protect, or establish any right or remedy under the terms and conditions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees, as determined by a court of competent jurisdiction, in addition to any other relief awarded.

12.05 Compliance with Laws and Nondiscrimination Assurance. Lessor reserves the right to operate the Airport in accordance with, and this Agreement is subordinate to, the Lessor's obligations to the federal or state government under any agreements with such. It is specifically acknowledged and agreed that nothing contained in this Agreement shall be construed as granting or authorizing an exclusive right for exercising any activity which is illegally discriminatory, and Lessee specifically agrees to conduct itself and its activities in a nondiscriminatory manner. Lessee, his/her agents, and employees shall not discriminate in any manner prohibited by the Federal Aviation Administration or the Texas Department of Transportation Regulations. Lessee further agrees to comply with any enforcement procedures as might be required by the United States of America or the State of Texas. This Agreement shall be subject to and in conformance with all federal, state, and local laws and regulations.

12.06 Quiet Enjoyment. Upon the performance of the covenants and agreements on the part of the Lessee to be performed hereunder, the Lessee shall peaceably have and enjoy the Leased Premises, appurtenances, facilities, licenses and privileges granted in this Agreement.

12.07 Force Majeure. Neither the Lessor nor Lessee shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder except the obligation to pay rent, by reason of strikes, boycotts, labor disputes, embargoes, shortages of materials, act of God, acts of the public enemy, act of superior governmental authority, weather conditions, floods, riots, rebellions, acts of sabotage or any other circumstances for which it is not responsible or which are not in its control.

12.08 Conformance with Rules and Regulations. The use of the Airport by Lessee shall be subject to any and all rules, regulations and ordinances which are now in force or which may be hereafter adopted by the Lessor with respect to the operation and use of the Airport, but no such rules, regulations, or ordinances shall increase the Base Rent payable by Lessee under this Lease or otherwise materially and adversely affect Lessee's tenure of the Leased Premises under this Lease. Furthermore, this Agreement and Lessee's use of the Airport shall be subject to any and all applicable laws, ordinances, resolutions, statutes, rules, regulations or orders of any Federal, State or local governmental authority lawfully exercising jurisdiction over the Airport or the activities and business operations of Lessee, including any limitations, restrictions or prohibitions affecting the aviation activities or operations of Lessee.

12.09 Licenses and Permits. Lessee hereby agrees that it shall, at its own expense and cost, procure and obtain all lawfully required licenses and permits, certificates and other authorizations required by any governmental authority, in connection with or covering the operations or activities permitted.

12.10 Limitation of Liability. To the extent allowed by law and within Lessor's statutory and constitutional powers to incur liability, in no event shall either Party, its employees, agents,

or contractors, be liable under this Lease to the other Party for any consequential, incidental, indirect, exemplary, special, or punitive damages, including any damages for business interruption, loss of use, revenue or profit, whether arising out of breach of contract, tort (including negligence), or otherwise, regardless of whether such damages were foreseeable and whether either Party was advised of the possibility of such damages.

12.11 Captions. Section headings are inserted herein only as a matter of convenience and for reference, and in no way define, limit, or describe the scope or intent of any provision herein.

12.12 Use of Language. Words of any gender used in this Agreement 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.

12.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which constitute but one and the same instrument.

12.14 Development of the Airport. Future development, changes, alterations, modifications or improvement to the Airport shall be at the sole discretion of the Lessor, the City of Kerrville, Texas and Kerr County, subject only to such notification to Lessee that the Federal Aviation Administration may dictate. The Lessor will strive not to hinder the Lessee's operations in carrying out the provisions of this Section 7.02.

12.15 Relocation of Facilities. In the event Lessor requires any portion of the Leased Premises for expansion or development of the Airport, after the third (3) year of the Term, Lessor reserves, at its sole expense, the right, on six (6) months' notice, to relocate Lessee to substantially similar facilities (taking into account any improvements Lessee may have made to the Leased Premises) at another substantially comparable site located on the Airport. Lessor reserves the right to retake minor unimproved portions of the Leased Premises, such as will not substantially interfere with the Lessee's improvements or operations, without compensation to the Lessee, provided that the rent shall be abated as to that portion of the Leased Premises which is taken back by Lessor.

12.16 Subordination to State or Federal Agreements. This Agreement shall be subordinate to the provisions and requirements of any existing or future agreement between the Lessor and the United States or the Lessor and the State of Texas, relative to the development, operation or maintenance of the Airport.

12.17 No Exclusivity of Aeronautical Services. Nothing herein contained shall be construed to grant or authorize the granting of the exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended.

12.18 Signing Parties Authorized. By his/her signature below, the parties signing this Agreement verify that each has been duly authorized to enter into this Agreement by Lessee and intends that Lessee be so bound by its terms and conditions.



12.19 Notices. All notices to be given under this Agreement shall be hand delivered or sent by certified or registered mail, return receipt requested, postage prepaid, and addressed to the parties at the following addresses:

LESSOR:                    Airport Manager  
                                 Kerrville-Kerr County Airport  
                                 1877 Airport Loop  
                                 Kerrville, Texas 78028

LESSEE:

12.20 Inspection and Repairs of Leased Premises. Lessor may enter upon the Leased Premises at any reasonable time and upon reasonable prior notice for any purpose necessary, incidental to or connected with the performance of Lessor's obligations hereunder, or in the exercise of its govern mental functions, for fire protection or security purposes, or for inspecting or maintaining the Leased Premises, or doing any and all things Lessor is obligated to do, or which may be deemed by Lessor necessary or desirable for the proper conduct and operation of the Airport or the protection of Lessor's interests.

12.21 Compliance with the Minimum Standards. All activities conducted upon the Leased Premises, whether by Lessee or its officers, employees, guests, contractors, or agents shall be in substantial conformance with the Kerrville/Kerr County Airport Code as adopted on June 28, 2018, which may be amended from time to time, a copy of which Lessor has provided to Lessee.

12.22 Updating Information. Lessee shall notify the Airport Manager, in writing, within ten (10) days of any change in the information furnished in this Agreement.

12.23 Entire Agreement. This Agreement contains all the agreements and conditions made between the Lessee and Lessor hereto and may not be modified orally or in any manner other than by written agreement signed by the Lessee and Lessor hereto.

12.24 Severability. If any part, provision, term, condition, obligation or portion of this Agreement is found to be illegal or void by a court of competent jurisdiction, the entire Agreement shall not be void, but the void provision shall be struck, and the remainder of this Agreement shall continue in full force and effect as nearly as possible in accordance with the original intent of the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be legally executed this \_\_\_\_\_.

LESSOR:

LESSEE:

KERRVILLE-KERR COUNTY  
JOINT AIRPORT BOARD

\_\_\_\_\_

By: \_\_\_\_\_  
Airport Manager

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

ATTEST:

\_\_\_\_\_  
Executive Assistant

Attachment: Exhibit A – Depiction and metes and bounds survey of Leased Premises.  
Exhibit B - Lessee and Aircraft Information

DRAFT

**EXHIBIT A**  
**DEPICTION AND METES AND BOUNDS SURVEY OF LEASED PREMISES**

DRAFT

**EXHIBIT B  
LESSEE AND AIRCRAFT INFORMATION**

**LESSEE:**

Registered Owner (s) / Lessee(s): \_\_\_\_\_

Address(es): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Contact Phone Number(s): \_\_\_\_\_

\_\_\_\_\_

E-Mail(s): \_\_\_\_\_

**Aircraft(s):**

Manufacturer / Aircraft Type: \_\_\_\_\_

Aircraft N-Number: \_\_\_\_\_

